




3 1761 11650972 0



Digitized by the Internet Archive
in 2023 with funding from
University of Toronto

Canada. Royal commission on
transportation

Evidence. vol. 64-66. 1949

1951

A.R.

Canada
ROYAL COMMISSION
ON
TRANSPORTATION

EVIDENCE HEARD ON

DEC 12 1949

VOLUME

64

521204

23.4.51



Presented to
The Library
of the
University of Toronto
by
Professor H.A. Innis

ROYAL COMMISSION ON TRANSPORTATION

Index Page #82
Page

Presentation on behalf of the Canadian Pacific
Railway Company - - - - - 13360
Mr. Carson - - - - - 13360

EXHIBIT No. 139-A: Submission of Canadian Pacific
Railway Company, Part I - - 13360

EXHIBIT No. 139-B: Submission of Canadian Pacific
Railway Company, Appendix to
Part I.

EXHIBIT No. 139-C: Submission of Canadian Pacific
Railway Company, Part II

GEORGE A. WALKER, K.C. - Called.
Statement amplifying submission of
Canadian Pacific Railway Company - - - 13362

EXHIBIT No. 140: Chart showing comparison
of unprofitable lines,
C.P.R. and C.N.R.

Cross examination by Mr. Shepard - - - 13397
Cross examination by Mr. Frawley - - - 13433-A

Noon adjournment - - - - - 13442

MR. G. A. WALKER, K.C. - Recalled. Cross examina-
tion by Mr. Frawley resumed - - - 13450
Cross examination by Mr. Brazier - - - 13490

Adjournment - - - - - 13520

ROYAL COMMISSION ON TRANSPORTATION

OTTAWA, ONTARIO,
MONDAY,
DECEMBER 12, 1949.

THE HONOURABLE W.F.A. TURGEON, K.C., LL.D. - CHAIRMAN

HAROLD ADAMS INNIS - - - COMMISSIONER

HENRY FORBES ANGUS - - - COMMISSIONER

Year	1990	1995	2000	2005
1990	1990	1995	2000	2005

G. R. Hunter,
Secretary.

P.L. Belcourt,
Asst. Secretary.

Model	Year	Age	Gender
Model 1	1990	18-24	Male
Model 2	1990	25-34	Female
Model 3	1990	35-44	Male
Model 4	1990	45-54	Female
Model 5	1990	55-64	Male
Model 6	1990	65-74	Female
Model 7	1990	75-84	Male
Model 8	1990	85-94	Female
Model 9	1990	95-104	Male
Model 10	1990	105-114	Female
Model 11	1990	115-124	Male
Model 12	1990	125-134	Female
Model 13	1990	135-144	Male
Model 14	1990	145-154	Female
Model 15	1990	155-164	Male
Model 16	1990	165-174	Female
Model 17	1990	175-184	Male
Model 18	1990	185-194	Female
Model 19	1990	195-204	Male
Model 20	1990	205-214	Female
Model 21	1990	215-224	Male
Model 22	1990	225-234	Female
Model 23	1990	235-244	Male
Model 24	1990	245-254	Female
Model 25	1990	255-264	Male
Model 26	1990	265-274	Female
Model 27	1990	275-284	Male
Model 28	1990	285-294	Female
Model 29	1990	295-304	Male
Model 30	1990	305-314	Female
Model 31	1990	315-324	Male
Model 32	1990	325-334	Female
Model 33	1990	335-344	Male
Model 34	1990	345-354	Female
Model 35	1990	355-364	Male
Model 36	1990	365-374	Female
Model 37	1990	375-384	Male
Model 38	1990	385-394	Female
Model 39	1990	395-404	Male
Model 40	1990	405-414	Female
Model 41	1990	415-424	Male
Model 42	1990	425-434	Female
Model 43	1990	435-444	Male
Model 44	1990	445-454	Female
Model 45	1990	455-464	Male
Model 46	1990	465-474	Female
Model 47	1990	475-484	Male
Model 48	1990	485-494	Female
Model 49	1990	495-504	Male
Model 50	1990	505-514	Female
Model 51	1990	515-524	Male
Model 52	1990	525-534	Female
Model 53	1990	535-544	Male
Model 54	1990	545-554	Female
Model 55	1990	555-564	Male
Model 56	1990	565-574	Female
Model 57	1990	575-584	Male
Model 58	1990	585-594	Female
Model 59	1990	595-604	Male
Model 60	1990	605-614	Female
Model 61	1990	615-624	Male
Model 62	1990	625-634	Female
Model 63	1990	635-644	Male
Model 64	1990	645-654	Female
Model 65	1990	655-664	Male
Model 66	1990	665-674	Female
Model 67	1990	675-684	Male
Model 68	1990	685-694	Female
Model 69	1990	695-704	Male
Model 70	1990	705-714	Female
Model 71	1990	715-724	Male
Model 72	1990	725-734	Female
Model 73	1990	735-744	Male
Model 74	1990	745-754	Female
Model 75	1990	755-764	Male
Model 76	1990	765-774	Female
Model 77	1990	775-784	Male
Model 78	1990	785-794	Female
Model 79	1990	795-804	Male
Model 80	1990	805-814	Female
Model 81	1990	815-824	Male
Model 82	1990	825-834	Female
Model 83	1990	835-844	Male
Model 84	1990	845-854	Female
Model 85	1990	855-864	Male
Model 86	1990	865-874	Female
Model 87	1990	875-	

COUNSEL APPEARING:

F.M. Covert, K.C. }
G.C. Desmarais, K.C. } Royal Commission on
 } Transportation

Hugh E. O'Donnell, K.C. } Canadian National Railways
H.C. Friel, K.C. }

C.F.H. Carson, K.C. } Canadian Pacific Railway
F.C.S. Evans, K.C. }
I.D. Sinclair }
K.D.M. Spence, K.C. }

Wilson E. McLean, K.C. } Province of Manitoba
C.D. Shepard }

M.A. MacPherson, K.C.) Province of Saskatchewan

J.J. Frawley, K.C. }
H.G. Nolan, K.C. } Province of Alberta

C.W. Brazier) Province of British Columbia

F.D. Smith, K.C.	} Province of Nova Scotia;
	} Transportation Commission of
	} the Maritime Board of Trade

J. Paul Barry) Province of New Brunswick

F.R. Hume } Canadian Automotive Trans-
M.L. Rapoport } portation Association

R. Kerr } Board of Transport
Commissioners

J.O.C. Campbell, K.C. } Province of Prince Edward
Island

[illegible]

OTTAWA, ONTARIO,
MONDAY, DECEMBER 12th, 1949

M O R N I N G S E S S I O N

THE CHAIRMAN: Mr. Carson.

MR CARSON: May it please the Commission:

In accordance with the Commission's request, we are opening this morning with the presentation of the case on behalf of the Canadian Pacific Railway Company^a.

In the first instance I would like, if I may, to file as an exhibit the submissions of that company, which are in two parts, and include a volume which is described as an appendix. It will be Exhibit 139.

THE CHAIRMAN: That includes the two volumes and the appendix?

MR CARSON: Yes; there are three volumes. I do not know whether the Commission might think it convenient to mark it 139, A, B and C, or give it one number .

MR COVERT: A, B and C.

MR CARSON: Then may I mark Part I as 139-A; the appendix, which is an appendix to Part I, will be 139-B; and Part II will be 139-C.

---EXHIBIT 139: A. Submission of Canadian Pacific Railway Company, Part I.

B. Submission of Canadian Pacific Railway Company, Appendix to Part I.

C. Submission of Canadian Pacific Railway Company, Part II.

MR CARSON: Now that those volumes are filed as an exhibit and are part of the record before the Commission, I do not suggest that they be copied into the transcript; I think that is unnecessary. So far as the transcript is concerned, we will be entirely satisfied, subject to the approval of the Commission, that the reporters transcribe just what is said in the room or what is read in the room.

Then, my lord, may I just read from Part I, five paragraphs from our opening submission, that commences on page 1. I propose to commence reading at paragraph 3 of the Outline Submission. Having referred in the earlier paragraphs to the problem that is before the Commission, paragraph goes on to say:

"3. The problem involves, in our view, the need of ensuring that the railways of this country be made financially sound and be able to provide adequate and modern railway services. Railways, at least those privately owned, must be able to attract the necessary capital to their enterprises in order that they may keep pace with the need for expansion and modernization of their services and for the improvements which are required to ensure that the products of industry may find their markets both at home and abroad.

4. The suggestions contained in this submission by Canadian Pacific looking to a solution of these problems involve basically the assumption that it is in the best interest of Canada that Canadian Pacific is to continue to function as a privately owned system.

5. Regulation of public utilities, including railway utilities, is necessary. At the same time, in the submission of this Company, regulation should neither be sought for its own sake nor should it be carried to the point of oppression.

6. If regulation is carried too far and, above all, if the problem is allowed to become one hedged about with political controversy and subject to political solutions, private enterprise cannot perform its function and must inevitably give way to a socialization of the enterprise.

7. It is equally important to recognize that regulation should be performed by a tribunal administrative in character but wise and judicial in its decisions, free from the stultifying effect of having its decisions subject to review and appeal by a political tribunal. Parliament has of course the power to legislate when legislation becomes necessary but it is, in the view of the Canadian Pacific, extremely important that neither Parliament nor the Governor-in-Council should provide the arenas in which questions primarily for the administrative tribunal are argued and disposed of."

Now, having reminded the Commission of those submissions, I would like to call Mr. George A. Walker, K.C., the Chairman of the Company, to present a statement to the Commission, and, if it pleases the Commission, I propose to ask Mr. Walker to present his statement in his own way, and not to interrupt the presentation of that statement by any questioning from counsel.

Mr. Walker.

GEORGE A. WALKER, K.C., Called.

Mr. Chairman and Commissioners, with your permission, I should like to make a statement amplifying in one or two respects the submission of the Canadian Pacific which was filed with your Commission some weeks ago.

In our outline submission (paragraph 4) the basic assumption was made that it is in the best interests of Canada that the Canadian Pacific should continue to function as a privately-owned system. While there is, in the railway world at least, as the result of the expanded regulation of railways and the rapid growth of unregulated competition, little enterprise that can be called either "free" or

"private", we use the phrase in contradistinction to the Canadian National Railways which is owned by the Government of Canada.

There are sound reasons for making this basic assumption.

It has been the consistent policy of successive Governments of our country and was recently reaffirmed by the Prime Minister of Canada that "the best way to maintain a high level of employment and to ensure prosperity is to provide the widest possible scope for private enterprise". No major political party in this country has ever adopted a contrary attitude.

(Page 13366 follows)

As the first great enterprise in Canada, one which was an essential link in Confederation itself and which is still the greatest single enterprise in this country, the Canadian Pacific may justly claim the benefit and protection of such a government policy in as full measure as, but no more than, industry generally throughout Canada.

It should not be forgotten that the Act providing for its incorporation recites that "the Parliament of Canada has repeatedly declared a preference for the construction and operation of such railway by means of an incorporated company, aided by grants of money and land rather than by the government" and further declares that when the contract for its construction is performed "the Canadian Pacific Railway.....shall become and be thereafter the absolute property of the company".

The obligation which the Company assumed by the terms of the contract to "forever efficiently maintain, work, and run the Canadian Pacific Railway", carried with it as a necessary corollary the right of administrative control of the of the undertaking.

Your Commission is respectfully urged not to lose sight of the fact that the Company's undertaking (though the subject of private ownership) is essentially a public work, on the one hand fulfilling a vital public function and on the other representing a huge investment of private capital, made, not upon the terms on which such investments are usually made, but upon the faith of a contract between the Government and a group of incorporators, to the observance of which the security holders of the Company today are as justly entitled as were the original signatories of the contract.

The holders of the Company's ordinary and preference stock number well over one hundred thousand individuals of

almost every walk of life, in Canada, the United States, Great Britain and continental Europe, 75% of whom own 100 shares or less and 98% 1,000 shares or less. There is no combination of shareholders that would constitute a preponderating or even an important influence in the conduct of the Company's affairs.

Acting for such a body of shareholders the Directors are charged with a trust even more serious than would be the case if their actions were guided by a body of men whose holdings gave them such an influence in the Company as to constitute practical control.

Some of the submissions made to your Commission have shown a tendency to insist that, while it is essential that the Canadian Pacific should remain a private enterprise in order to provide competition with the Government-owned system, more and more control, should be exercised by the executive arm of the Government (or, in other words, that the Canadian Pacific should be treated as a mere instrument of national policy) and if, in the result, the Canadian Pacific cannot survive as a business enterprise it should be aided by government subsidies.

I desire to put firmly to your Commission my view that such a policy of railway regulation, if applied to the Canadian Pacific, would inevitably lead to its destruction as a private enterprise. I say this because, in my opinion, neither "public opinion" (for which the clamour of pressure groups may so readily be mistaken) nor the Government as an interpreter of such public opinion could possibly take the impartial and judicial view of its financial needs to which any public utility corporation is entitled. Why should anyone seek to avoid having such issues determined by an impartial administrative tribunal? The answer must surely be found in a fear that the contentions to be raised against the railways would, in some measure at least, be unacceptable to such ^atribunal.

The Canadian Pacific believes that the findings as to the financial needs of any regulated public utility to enable it to perform its functions with due regard to the public interest (involving as these would, in the case of the railways, either increases or reductions in the level of rates) should be decided upon the evidence before it by a responsible and impartial tribunal. Any proposal which exposed the Tribunal's decisions to being overridden by the executive arm of Government, reacting to political pressure or the influence of pressure groups would result in injustice, in a lowered standard of public service and ultimately in the extinction or nationalization of the enterprise itself. Such a proposal would tend towards a return to the unsatisfactory system of regulation of railways which existed prior to 1903, the weaknesses of which resulted in the establishment of the Board of Railway Commissioners.

The suggestion of increased Government intervention not only violates the letter and spirit of the contract to which the Canadian Pacific owes its existence, but it is fundamentally opposed to every sound principle of private enterprise.

That the Canadian Pacific has amply played the role assigned to it by Parliament in the development of Canada does not rest on mere assertion.

The Royal Commission of 1931-2 presided over by the Right Honourable Lyman Poore Duff, after an exhaustive enquiry into the whole problem of Canadian Transportation in which "the more detailed and searching phase of our investigation has.....concerned itself with the position of the two principal railway companies whose problems, difficult enough under normal conditions, have been aggravated in recent years by the continued depression in world trade", summed up the position of the Canadian Pacific in these words (Section 25

of the Report):

"As a result, the Canadian Pacific Railway Company, the largest taxpayer in Canada, has been subjected to the competition of publicly-owned and operated railway lines, supported by the financial resources of the country. They had honourably discharged their original contractual obligations with Parliament, and the company's lines had played a great part in binding together the western and eastern provinces of the Dominion. By common consent, the company's administrators had brought faith, courage and invincible energy to the task of building its lines through the undeveloped west. The company's achievement commanded the admiration of both railway operators and the public, and has been a material factor in causing Canada to be favourably known upon three continents. Their operations brought profit to shareholders, and the enterprise became a national asset of acknowledged value and importance to the Dominion".

Neither the lapse of the intervening years, the continued onset of depression throughout the 30's, the convulsion of World War II, nor the post-war inflation which has permeated every phase of our economic life, save that of railway rates, has altered the essential soundness of that finding.

During its nearly sixty-five years of operation the Canadian Pacific has not cost the country one penny beyond the considerations in the original contract.

While the railway was under construction and financing was difficult the Government guaranteed \$15,000,000 of the Company's bonds. Though these were not to mature until 1938, the Company had, by 1906, deposited with the Government the last instalment of principal and paid all the interest in full.

Again in 1933, when the money markets of the world were virtually closed to the sale of securities, the Government guaranteed a loan to the Company by a group of the chartered Banks in Canada of \$60,000,000, repayable within five years. The money was in fact repaid with interest in full within three years of the loan, again without cost to the Government.

CAPITAL REVISION OF C.N.R.

In what follows I should like to make it abundantly clear that nothing is said in any spirit of animadversion towards the Canadian National Railways or the submission which has been filed on its behalf.

I repeat what we have said publicly before, that the Canadian National Railways is today ably managed by a thoroughly competent group of officers; and it should also be said that the executive officers of the Canadian National presently serving the system cannot be charged with responsibility for the depressing picture disclosed in their submission.

We appreciate, too, the feeling of lowered morale which it is suggested must affect officers and employees of the Canadian National in serving a Railway which, to put it briefly, does not pay its way. Indeed in recent years the inability of the Canadian Pacific

to earn adequate net revenues (while gross earnings were at the highest level in its history) has produced a like feeling on the part of its officers and employees, differing, if at all, only in degree, from that of the officers and employees of the Canadian National.

The natural desire of the officers of the Canadian National Railways for the improvement of that system's financial structure should not, however, be allowed to found a recommendation by your Commission which would do irreparable injury to the Canadian Pacific. The management of the Canadian Pacific would be neglecting its plain duty to the shareholders of the Company and the holders of securities for its funded debt if it failed to comment on some aspects of the Canadian National submission.

The historical review of this topic in the Canadian National submission begins with the default of the Grand Trunk in 1915 which led to the Report of the Drayton-Acworth Commission in 1917 (page 13 of Canadian National submission).

We earnestly commend to your Commission a careful study of that Report as well as of the Report of the Duff Commission in 1931-2.

Specifically, however, there are three passages of the Drayton-Acworth Report which are of vital interest and have a direct bearing upon the whole submission of the Canadian National, as it bears upon the equally grave problems of the Canadian Pacific.

At Page xlv the Commission said:

"We think that, if the State took over and undertook to operate the Grand Trunk, the Grand Trunk Pacific and the Canadian Northern, it would be morally bound to offer to purchase the Canadian Pacific also. This company is in a

strong financial position; it has assets of great present and even greater potential value, largely exceeding its liabilities; its \$260,000,000 of common stock stand at a high premium, and have been very much higher; it pays a steady dividend of 10 per cent; its purchase would be a costly matter; and it does not ask to be purchased or to be helped in any other way. The company is admittedly progressive and gives a good public service. Moreover, it has a large investment in ocean steamships, irrigation, land and coal development schemes, and other enterprises quite unsuited for Government management. But the Canadian Pacific Railway is exposed throughout its whole territory to the competition of either one or both of the other systems. So long as that competition is in the hands of other organizations, also having to cover the interest on their bonds and striving to earn a dividend on their stocks, the Canadian Pacific Railway has no cause for complaint. But competition with railways operated by the Government stands on an entirely Government footing. It would be at any time possible for the Government deliberately to adopt a policy of lowering rates, in some part or throughout the territory involved, below a commercial basis, and making up the deficiency out of general taxation. It might be argued that such a policy was justifiable on the ground that the general prosperity and development of the country would be thereby promoted. But while conceivably it might be proper to tax the public to develop the country,

though in fact it would not be the whole public but only certain portions of it that would benefit, it could not possibly be fair to impose a special tax upon the Canadian Pacific Railway shareholders for the purpose. And yet it is evident that this would in fact happen. The Canadian Pacific Railway would be absolutely forced to follow any rate reduction made by the Government railways, on pain of losing the business entirely."

At page LI, we quote:

"Our personal belief is strong that, in normal circumstances, railway enterprise is a matter best left in private hands, subject to proper regulation by the Government. Were we asked to advise in the case of the railways of the United Kingdom or the United States, which have been constructed by private companies, with money found by private investors, we should give effect to this belief. We go further and consider that, in the case of the Canadian Pacific Railway, as to which the Government does instruct us to advise, the fact that it received large help from public sources in its early days, is not any reason why the existing status of the company should now be disturbed. This company has carried out its bargain. It has repaid to the Government large advances made in earlier years. We believe that Canada has had good value for what it has given. We think that it is in the interest of the country that this company should be rich and prosperous, for such companies can be expected, not only to give the best service, but to be best able to provide in time to meet new developments as they arise. We have no hesitation

therefore, in coming to the conclusion that the status of the Canadian Pacific Railway should be left undisturbed."

and at page LXXII;

"We have recommended that the Intercolonial and the Transcontinental lines should be handed over free of cost for the reasons which we have given above. But we think it should always be borne in mind, both by the trustees and by the public, that the real capital of the new system includes the cost of these lines. In other words the trustees are responsible for a return, not merely on the capital of the companies' railways acquired, but also on the capital invested in the Government railways. For though the Government railways have no separate capital account, properly so called, their construction has cost the people of Canada \$276,000,000, and the people of Canada are paying interest on this amount every year out of the general taxation of the country."

"We would go further and lay it down in terms in the Act of Parliament creating the Board of trustees that it was the duty of the trustees to operate their system as a commercial concern, and to make no general reduction in rates, unless ordered so to do by the Railway Commission, until interest at a reasonable rate was earned on the whole capital value of the undertaking. And this for two reasons. We believe that the obligation to work the system as a commercial concern in competition with a well established and well equipped rival will be a stimulus to efficient and economical management. And further we think that reductions, in favour

of certain classes of business and certain commodities, which bring the railway rates below a reasonably remunerative basis, are wrong in principle. Their effect is to conceal the fact that a bounty is being given to certain persons and certain places at the expense

(line continued on next page)

(Page 13383 follows)

of the community at large. If bounties are to be given, as to which it is not for us to express an opinion, we think they should be openly voted by Parliament, and not given under the disguise of a railway rate reduced to an unremunerative basis."

We invite your Commission to contrast the position of the Canadian Pacific today, with that forecast in the first of the foregoing quotations.

Notwithstanding the fact that the Company has a substantial income from sources other than railway operations, its ordinary (or common) stock, having a par value of \$25 per share, is bought and sold today at approximately \$17 per share. This represents a discount of approximately 32%. Since 1930 the stock has sold as low as \$4 per share, a discount of 84%.

Although the Company has had the sanction of the Governor in Council since 1930 (PC 252 February 4, 1930) to increase its ordinary stock from \$335 million to \$500 million (subject to the condition that none should be issued at less than par) there has never been a time since that sanction was given when the stock could be sold without such a sacrifice as to make the sale impracticable, even had the Order in Council so permitted.

The depreciation in the market value of the Company's ordinary stock was originally due to the suspension of dividends throughout the period 1932 to 1942, as the result of the depression in world trade and has been prolonged by the low ratio of net railway earnings in recent years. During the early years of the war, before the increases in operating costs had become so heavy as to neutralize and later obliterate the increase in revenues resulting from wartime traffic volume,

net railway earnings were sufficient to justify a resumption of dividends at a lower rate, but in an effort to improve the financial position of the Company and its ability to serve the country adequately, these earnings, together with earnings from outside investments were applied to the reduction of the Company's funded debt, which, during the depression period had grown to dangerous proportions.

Since the year 1945, the enormous increases in wages and the costs of materials have so reduced net railway earnings as to leave no margin for a return to shareholders on the investment in the railway enterprise.

The Canadian Pacific makes no claim that the status of its security holders entitles them to protection against financial risks. It does assert that, having regard to the contractual obligations stipulated for by the Dominion and assumed by it, the Company has a right to such treatment from the public authorities of Canada as will afford it a free and fair opportunity of fulfilling those obligations, and of carrying on its undertaking with a reasonable expectation of profit. In no other way can its credit be maintained as necessarily it must if the railway is to serve adequately the constantly expanding needs of Canadian industry, in all its branches, for modern and efficient rail transportation.

The vital need of railway earnings sufficient to provide a fair return on the property investment has been stressed by impartial minds in the report of three eminent members of the Interstate Commerce Commission (Commissioners Splawn, Eastman and Mahaffie) made to the President of the United States in 1938 in these words:

There is some misunderstanding of the fixed charge situation and its significance. Many seem to think that these charges represent an unjust burden, and that if it could be removed, all would be well. The fact is that these charges constitute a comparatively modest return on only a part of the legitimate investment in railroad property. There is nothing unjust about this return. The objection to it lies in the contractual obligation to pay regardless of conditions, thus making it difficult for the railroads to weather our periodical business depressions. Moreover, as above indicated, even if the investment were more largely represented by stock rather than bonds, the right to obtain, if possible, a return on the fair value of the property would still remain. The advantage of stock is that in times of depression dividends can be passed without danger of bankruptcy. But the fact that they are so passed is in itself a reason why they should, if possible, in times of prosperity be paid in generous measure, at least on stock supported by property value. Indeed companies cannot long maintain good credit unless they are paid. Careful investors will not buy bonds unprotected by a heavy margin of earnings over and above the interest charges. Not only that, but unless earnings are sufficient to make stock attractive to investors, railroads will be forced to do all their financing by borrowings, thus recreating the burden which the bankruptcies are reducing and eventually putting a stop to financing.

Much stress is laid (in the Canadian National submission) upon the argument that the railway lines of which the system is composed were largely built to compete with one another. This is particularly so in so far as the lines of the Canadian Northern and the Grand Trunk Pacific in western Canada are concerned.

It is equally true that in western Canada both systems were constructed to compete with the Canadian Pacific and that much of their mileage was built, not in new and undeveloped territory, as was the Canadian Pacific, but through territory already adequately served by the lines of our Company and into prosperous communities which, when the Canadian Pacific was built, were but names on a map. Notably, some of this mileage was built through the dry areas of southern Alberta in which, quite apart from its railway investment, the Canadian Pacific had spent many millions of dollars to develop, by the construction of irrigation works.

It is undoubtedly true that much of the Canadian National mileage is unprofitable and at page 70 of their submission it is stated that out of a total of 23,300 miles in that system, only 10,500 miles or 45% had a traffic density of over 1,500,000 gross ton miles per mile in 1948, leaving 55% of lesser density.

In the case of the Canadian Pacific on a comparable basis out of a total of 18,400 miles operated in 1948, 8,600 miles or 47% had a traffic density exceeding 1,500,000 gross ton miles per mile and 9,800 miles or 53% had a traffic density below that figure.

A like comparison may be made in the mileage of unprofitable lines. The Canadian National have 5,700 miles or 24.4% with a traffic density below 250,000 gross ton miles; and the Canadian Pacific 4,400

miles, or $2\frac{4}{5}$ of the same character.

MR. CARSON: Mr. Walker, I did not intend to interrupt you, but I am reminded we have the data to which you have just referred put in the form of a chart that I think might be helpful to the Commission. Perhaps I can file it at this stage. It will be Exhibit 140.

EXHIBIT No. 140: Chart showing comparison
of unprofitable lines,
C.P.R. and C.N.R.

I do not think it is necessary to pause to examine the chart in any detail, Mr. Walker, but I should like to have it before the Commission. Would you just continue with your statement?

(Page 13390 follows)

THE WITNESS: This is, in large measure, a problem which must be faced by any great railway system attempting to serve the needs of a vast country in which settlement and development are constantly expanding.

While time does not permit of obtaining reliable data, I venture to say that in the relatively densely populated United States few great railway systems can be found which have not a substantial mileage of unprofitable lines.

Without the slightest approach to disparagement of the Canadian National Railways system, its importance in the national economy, the achievement which has been accomplished in its integration, or the efficiency of its administration, we respectfully suggest that the Canadian Pacific is of no less importance to the economy of Canada.

Although the Canadian Pacific has always been the subject of private ownership, as Parliament expressly declared it should be, it was conceived and built as a great national undertaking and nothing has happened since to alter its essential character.

As a private railway enterprise, however, it stands in a unique position among the railways of the English-speaking world in its active competition with a Government-owned railway operating throughout the whole territory which it serves.

The Canadian National possesses immeasurable advantages. It need not concern itself with the maintenance of credit, because the securities of the system are backed by the guarantee of the Dominion Government. Since 1937, when recapitalization was effected, any losses have been paid from the Consolidated Revenue Fund of the Dominion. Any surpluses have been turned over to the Dominion and have been applied in repayment of loans made to the railway for

capital purposes.

The Canadian Pacific, on the other hand, can borrow only in a highly competitive money market, and, if it is to provide efficient and modern services, it must earn consistently a reasonable return on the substantial investment in the railway enterprise. Its losses must be borne by the shareholders.

At pages 46-7 of the Canadian National submission comparisons are drawn between the experience of the United States railways, the Canadian National and the Canadian Pacific in the growth and decline of their funded debt.

The comparison as between the Canadian National and the Canadian Pacific will repay some analysis.

Taking the figure of \$108,522,000 shown on page 47 (C.N.) as the reduction in funded debt of the Canadian Pacific in the sixteen year period, it will be seen that most of this reduction (\$104,593,000) was achieved in the five year period 1939-43 inclusive. As has been pointed out, to accomplish this it was necessary to continue the passing of dividends.

It is significant that in the fairly comparable five year period (1941-5) as appears in Table 10 of their submission, the Canadian National earned surpluses aggregating over \$111 million and that their gross revenues since 1945 have been maintained at the high level of the previous five years and in 1948 reached the highest level recorded.

These figures demonstrate, as indeed the Canadian National submissions quite fairly assert, (pp 39-40) that the inadequate level of freight rates has been a most material factor in contributing to its present unsatisfactory results. This same factor has

been the cause of the meagre net earnings of the Canadian Pacific. Unless full weight be given to this major cause of the unsatisfactory operating results of both systems, it must be obvious that the already grave problems of the Canadian Pacific will be still further aggravated.

I have spoken earlier of the irreparable injury to the Canadian Pacific that might flow from the adoption of the submission of the Canadian National. This, at first blush, might seem to be in conflict with paragraphs 54 and 55 of our outline submission.

There is no contradiction in fact, but the explanation requires a brief historical summary.

Ever since the first comprehensive review of the freight rate situation in Canada was undertaken by the Board of Railway Commissioners in the Western Freight Rates Case, in 1914, successive Boards have treated the operating results of the Canadian Pacific as the yardstick for the measurement of just and reasonable rates.

This attitude was neither sought nor welcomed by the Canadian Pacific. It resulted in the first instance from the combined opposition of Counsel for the Western Provinces to the use of Canadian Northern or Grand Trunk Pacific figures and later from the view of the tribunals that the affairs of those two companies were in such a state of insolvency that their operating results could not be regarded as a proper measure.

The inevitable result has been that the Canadian Pacific has been consistently the target of attack, and, with few exceptions, every ill, real or imaginary, from which western Canada suffers, has been laid at its door.

The Canadian National system is today in a very different setting.

As the judgment of the Board of Transport Commis-

sioners in the 21% Case found, the Canadian National is "now fully integrated into one great railway transportation system, which is well and efficiently operated and managed".

In the more recent judgment of the Board handed down in September last, the majority judgment suggests that the results of the Canadian National might well become the yardstick and that the propriety of this may depend upon the recommendations of your Commission in your "review of the capital structure of the Canadian National and the advisability (or otherwise) of establishing and maintaining the fixed charges of that company on a basis comparable with other major railways in North America" and possibly upon the implementation of your recommendations by Parliament.

Provided any reasonable formula is used, the Canadian Pacific will welcome the use of Canadian National results as another yardstick for the measurement of just and reasonable rates, though it is respectfully suggested that there can be no sound reason for using them to the exclusion of the operating results of the Canadian Pacific.

The danger of injury to the Canadian Pacific (and it cannot be too strongly emphasized) lies in the suggestion that the Canadian National results might be used as a yardstick on the footing that its requirements should be limited to earning its fixed charges (after these have been substantially reduced) and a small surplus, without any assurance or direction that the system should and must be allowed to earn a fair return on the investment in railway facilities.

Such a situation would inevitably prevent the Canadian Pacific from earning any return on the capital

invested in its railway enterprise, permanently impair its credit, and, it is not too much to say, would ultimately result in its bankruptcy.

The great strides that have been made in recent years in integrating the Canadian National system, and the efficiency of its present management, strongly indicate, as has been said, that the disappointing financial results are due largely to the inadequate level of railway rates which has created so serious a financial problem for the Canadian Pacific.

We strongly urge that the first and essential step to be taken is to establish a just and reasonable rate level related to the enormous increase in the costs of transportation and thus to remove the disability from which the Canadian National in common with the Canadian Pacific is suffering. Then and then only, in our submission, can a sound conclusion be formed as to the need for a revision of the capital structure of the Canadian National.

For many years, the Canadian Pacific, in the financing of its rail operations, has maintained an unequal struggle with the Canadian National. Unable to raise share capital because of its depreciated credit, it is, year by year, confronted with the alternative of increasing its funded debt beyond safe proportions, or of curtailing much needed capital expenditures.

Should there be thrown into the balance a declaration that the Canadian National is no longer required to pay its way and earn some return on its investment value as a railway enterprise, it would be not courageous but foolhardy to suppose that this unequal struggle can be long maintained.

No more today than in 1917 or in 1931-2 does the Canadian Pacific want to be taken over by the Government.

Nor does it seek or desire Government subsidies of any kind. It does want, and may justly claim, the opportunity to survive on the accepted principles of free enterprise, as these are applied to the regulation of public utilities.

Thoughtful Canadians who give more than lip service to the principles of free enterprise and who believe that the credit of their country should be held high, must be concerned in the adoption of any policy which would lead to the defeat of the purposes for which the Canadian Pacific was created, after sixty-five years of operation in which, throughout good and bad times alike, the Canadian Pacific has maintained a standard of efficiency and safety second to none among the transportation systems of the world.

MR CARSON: Thank you, Mr. Walker.

Mr. Walker is now available, my lord, for any questions any member of the Commission would like to put to him, or any questions counsel would like to put to him.

(Page 13397 follows)

THE CHAIRMAN: Does anybody wish to question Mr. Walker?

- - - - -

CROSS-EXAMINATION BY MR. SHEPARD

Q. Mr. Chairman, I have some questions. I recall, Mr. Walker, that when Mr. Evans started the questioning of Dr. Locklin last week that he said that he was somewhat diffident about asking questions of a man of the standing of Dr. Locklin and I think perhaps I can say without contradiction that I know how he felt last week.

A. You need not be nervous.

Q. Well, I think perhaps I should identify myself to you first, and tell you that I am here on behalf of the Government of Manitoba.

A. Yes, Mr. Shepard.

Q. And I would like to make one or two references to the statement you have just given us. First of all, on page 3 towards the bottom of the first complete paragraph on that page, you are referring to the proposal which I think I recognize as having been made in the Manitoba submission, and you say:

"Such a proposal would tend towards a return to the unsatisfactory system of regulation of railways which existed prior to 1903, the weaknesses of which resulted in the establishment of the Board of Railway Commissioners."

Now, I just wanted to ask you, Mr. Walker, what your views were of the Aeronautics Act which I am sure you are familiar with and which sets up an Air Transport Board directly under the control of the Minister or Governor-in-Council on all matters?

A. I think it is open to the same objection that I have urged here. Now, at one time in the early days when we had a status in the air field, we objected to that very provision.

Q. Would you say that that Act as amended in 1944 expresses an archaic principle and goes back to something that was in vogue in 1903 but which was objectionable today?

A. Well, I don't know what the amendment of 1944 was.

MR. CARSON: Mr. Shepard, does the statute deal with rates?

MR. SHEPARD: I am sorry I have only one copy with me.

A. Well, if you would let me see it.

Q. Perhaps you would be interested particularly in Sections 9, 10 and 11, sir?

A. Sections 9, 10 and 11 have no relation at all to the regulation of rates, Mr. Shepard; they are governed by (what do you call the other statute?). This is an Act to authorize the control of aeronautics. Now, that deals with operation, safety, international treaties and what have you. The rates of the air lines are governed by the Air Transport Board under another statute.

MR. EVANS: You may have in mind the Transport Act. That was originally the Act but I think that has been changed now.

A. But there is a statute under which the Air Transport Board regulated the rates of air lines and it has no reference to the Aeronautics Act, Mr. Shepard.

MR. SHEPARD: Let me read this to you from the Aeronautics Act, Section 11:

"Subject to the approval of the Governor-in-Council, the Board may make regulations" and then sub-section (g) of the type of regulations:

"respecting traffic, tolls and tariffs and providing for the disallowance or suspension of any tariff by the Board."

A. Well, you will find that that jurisdiction has been transferred now to the Air Transport Board.

Q. Well, it is the Board as set up. The Air Transport Board is set up by the Aeronautics Act.

A. Well, if that is the situation, Mr. Shepard, I would disagree with it just as violently as I do with the suggestion that railway rates should be controlled either by the Governor-in-Council or any department of government.

Q. Well, I did not expect you to agree with it, but I wanted to go back to the question I asked you a moment ago as to whether you felt that this Act in its amended form passed in 1944 expresses an out-moded opinion of Government, if you want to call it that, or Parliament?

A. Well, I do not like to be put in the position of criticizing Parliament, but I disagree with the principle.

Q. On what grounds?

A. On the ground that you cannot have proper regulation of a public utility except by an independent and impartial Tribunal, and I do not know any civilized jurisdiction where that principle is not recognized.

Q. Do you know any uncivilized ones?

A. No, I am not very well acquainted with the uncivilized ones.

Q. Then, turning to page 5, Mr. Walker, of your statement, you begin there to quote excerpts from the Drayton-Acworth Commission in 1917 and I just wondered what your views were as to whether that Report, made 32 years ago, might have lost some of its validity because of the changed conditions in the interval?

A. Well, conditions have certainly worsened so far as we are concerned. I do not think that the Report has lost any of its validity.

Q. You would not suggest that a Commission would write the same Report today as it did in 1917 because I am sure you would agree that there have been many new factors?

A. Well, as I understand it, Mr. Shepard, this Commission has not set itself up to go into the historical aspect of the railway problem; it is dealing merely with present-day conditions, and I suggest that all the conditions that are cited in that Drayton-Acworth Report are quite pertinent today except that our position has very gravely deteriorated in the meantime as the Drayton-Acworth Commission suggested would be the case.

Q. And your position has deteriorated more or less in the same manner as a good many railroads in the United States?

A. I think it has deteriorated to a much greater extent because many of the United States railways have been reorganized, gone through bankruptcy and whether they have or have not they enjoy a rate level which is immeasurably better than ours.

Q. And a cost immeasurably commensurate with the rate level?

A. Not by any means.

Q. But a higher cost level than the Canadian railways?

A. Within the months of this year for which the last return was received, the rate of return on the property investment of all the Class I Railroads of the United States was 3.94 and in some of the districts, the southern district, the return on investment was 4.31, but 3.94 was the return

for all the railroads of the United States which come within the classification of Class I railways. Ours last year was 1.78.

Q. Now, Mr. Walker, I would like to draw your attention to page 7 of your statement where you make reference to the current selling price of Canadian Pacific common as about \$17 a share. I am not too sure of my facts on this. I think it is correct to say that there have been no recent (and I think that goes back a number of years) common stock issues by American railways?

A. Well, I really could not say.

Q. And I suppose you have some knowledge of the difficulties that the American Railways are experiencing in raising new capital or have experienced in the recent past?

A. Well, I have not noticed any difficulty. The Pennsylvania just a few weeks ago announced a proposed capital outlay of some \$300 million.

Q. Do you know how they are financing that, sir?

A. No, I do not. I think very largely by long-term bonds, but I cannot speak with certainty.

Q. Now, on page 8, sir, you say part way down the top paragraph on page 8 (you are referring to the necessity of a proper return) and then you say:

"In no other way can its credit be maintained, as necessarily it must, if the railway is to serve adequately the constantly expanding needs of Canadian industry".

You have said earlier in your statement that there was a time when the Canadian Pacific had a security issue or I guess it was a Bank-borrowing guaranteed by the Dominion Government?

A. Yes.

Q. And you probably noticed that that is one of the alternative submissions in the Manitoba Brief that consideration perhaps should be given if the Canadian Pacific needs new capital to government-guaranteed assistance which would quite obviously enable the Canadian Pacific to obtain their money at a lower interest rate. I just wondered what your views were?

A. I think it is an utterly unsound basis for any private enterprise.

Q. Would you say it was unsound to the point where the only alternative was to raise freight rates 50% to re-establish the credit position of the Canadian Pacific, that the freight rates should go up that amount before you had a government guarantee on a security issue?

A. So long as that rate is level and reasonable, I do not see whether it makes any difference whether freight rates go up 50% or 100%. The base must be reasonable and every other commodity in this country is selling, not at 50% but at 60 or 70% of its current price in 1939 and we are paying those prices.

Q. But you would still say that irrespective of how high freight rates would go, there is no limit to the height they would go?

A. Well, if you went to the point of saying that the government not only guaranteed the borrowing but that we did not have to pay them, that would be a very different problem but you are only postponing the evil day by obtaining a government guarantee for something or another which your own credit won't support.

Q. Isn't it a fact that the Canadian Pacific did obtain a government guarantee and survived it?

A. That was at a time, Mr. Shepard, when the money markets of the world were closed to every security. The bluest of blue chips could not have floated securities in those days.

THE CHAIRMAN: What year was that, Mr. Walker?

A. I think it was in 1933, within four years of the crash of 1929.

MR. SHEPARD: But it is a fact that today, as far as issuing common stock is concerned, you have relatively the same position as you had in 1939 and you could not do it?

A. No, we could not sell common stock today.

Q. Would there be any situation when you conceive that your Company might agree that a Government guarantee would be preferable?

A. Well, I cannot conceive of any situation in which we would welcome it. The day may come when, as a matter of desperation we have no alternative, but I say it is utterly unsound in principle.

(Page 13407 follows)

Q. Then, on page 11 of your statement, down near the bottom of the page, I read:

"The inevitable result has been that the Canadian Pacific has been consistently the target of attack, and, with few exceptions, every ill, real or imaginary, from which Western Canada suffers, has been laid at its door."

I wonder if you would tell me what the "few exceptions" are?

A. I cannot readily think of them.

Q. You would prefer to have that deleted from your statement?

A. No. There may be exceptions. I would not say.

MR. CARSON: What was your question, please?

MR. SHEPARD: Q. I asked the witness what the "few exceptions" were.

A. We were recently charged with having dictated the location of the TransCanada Highway. Nobody representing the Canadian Pacific had ever approached anybody with regard to the location of the TransCanada Highway, yet newspaper editorials charged us with having engineered the whole thing.

MR. FRAWLEY: Q. But you do get some good newspaper editorials, Mr. Walker, do you not?

A. Seldom.

Mr. SHEPARD: On page 13 of your statement, in the second paragraph, I read:

"Unable to/^{raise} share capital because of its depreciated credit, it is, year by year, confronted with the alternative of increasing its funded debt beyond safe proportions, or of curtailing much needed

capital expenditures."

I just wondered what your views were on what the "safe proportions" of funded debt to total capital would be. We heard something about it in the 20% Case.

A. Personally, I think ours is at the moment as high as it should be. But there ^{are} a good many railroads that exceed 50%. I do not think any of them are happy about it. I think you are in the danger zone when your funded debt exceeds 50% of your total capitalization.

Q. Exceeds 50%?

A. Yes.

Q. What reasons would be ascribed for saying that is the danger zone?

A. Because in good times you have no difficulty at all in meeting your fixed charges. But anything approaching a depression reduces your gross earnings at a tremendously rapid rate and consequently your net earnings. Therefore, in times of depression, if your funded debt is out of line you cannot pay your fixed charges, and you become bankrupt.

Q. How would that be affected if Government guarantee should be obtained for the issue of new securities?

A. Well, Mr. Shepard, if you are working with Government guarantees you are not a private enterprise, and ultimately the Government who do these things for you begin to do these things to you, and you cease to be a private enterprise.

Q. Yes. Well, the Canadian Pacific ceased temporarily to be a private enterprise once before in its history, did it not?

A. When ?

Q. When you obtained Government guarantee of bank loans.

Q. You might think so, but we repaid that money in

two years less than the time in which we were bound to repay it, a fact which demonstrates, I think, the sincerity of our people when we say that we do not want to be dependent upon Government aid.

But at that time, you may remember, Mr. Shepard the Government were exceedingly anxious that capital expenditure should not cease throughout the country. They wanted us to help in relieving the depression by providing employment.

And it was for that reason, not for any love of the Canadian Pacific that they guaranteed our \$60,000,000 loan. And in addition to that, they loaned us other money specifically to provide work which we had no immediate necessity for doing, simply to provide relief from depression.

Q. But there would be no reason to expect that if the proposed capital expenditure programme of your Company was necessary now - and I am not in a position to dispute whether it is or not - that if you should obtain a Government guarantee of securities for the purpose of financing it, they would be cleaned up as rapidly as you could, so that you could return to your private enterprise basis

A. I do not think we will have cleared an imbalance as between funded debt and capital stock. The salvation of the Canadian Pacific lies in the restoration of its credit to the point where it can sell share capital.

Q. Now there is one other suggestion which was put forward by the Manitoba Government as an alternative means and I should, perhaps, make it clear, first, that we do not consider there is any need for a subsidy. I think we are probably one of the people you refer to as paying lip-service to private enterprise, but that is as much as we can pay in the Court-room. However, one of the other alternatives we put forward was a suggestion that it might be possible to set up some type of reserve in the books of the company. I

appreciate that it would not be feasible to immediately finance out of that type of reserve a large programme this year, but I wondered if you had any views on that?

A. It would be very desirable to build up reserves if you have the money to build them up with. But as it stands today, we are hard-pressed to find the money to operate the railway. So how can we build up reserves in such a situation as that?

Q. But it might help to alleviate your problem and establish a credit position of the company if you were able to build up a reserve. You would not need to float securities on the same basis as you would now. You might conceivably float them on the security of that reserve.

A. If it were possible for us to build up cash reserves?

Q. Yes.

A. That would ^{be}/Utopia itself.

Q. I am not too sure, Mr. Walker, what portion of Part 1 of the Canadian Pacific mimeographed submission I should ask you questions about. Mr. Carson read some paragraphs, I think, starting with Paragraph 3 on page 1.

THE CHAIRMAN: Before we go on to the main brief, we will take a few minutes recess.

- - - - -

(Upon resuming)

MR. SHEPARD: Q. Now Mr. Walker would you please turn to the first page of Part 1 of the printed submission of the Canadian Pacific Railway, where the last sentence of Paragraph 1 reads:

"The essential problem can, in our view, be simply stated, that is to say: How the people of Canada can be furnished adequate and modern transportation services at the lowest possible cost to the Nation

and without unnecessary or uneconomic consumption of labour and materials."

Now, there are three elements discussed in that sentence: First of all, the provision of adequate and modern transportation services; secondly, the lowest possible cost for providing those services; and thirdly, reference is made to the fact that those costs should not include unnecessary or uneconomic consumption of labour and materials.

I wonder who, in your opinion, should be left to determine those three elements.

(Page 13415 follows)

400

A. I should say the Board of Transport Commissioners should deal with the first two, and the third may be to some extent under our control. We certainly do not encourage the uneconomic use of transportation, Mr. Shepard.

Q. Do I understand from that answer that you would be content to have the Board of Transport Commissioners determine what is an adequate and modern transportation service to be provided by the C.P.R.?

A. That may be stating that a little too generally, but in a very large measure they do determine now what modern and efficient transportation services are. They have control over the greater part of our equipment. They have control over the train services that we provide. They do not allow us to remove a train without their approval, or to close a station, or to pick up a piece of track, although it may be, in our opinion, quite uneconomic to leave the track there or to provide train service.

Q. I suppose the converse would be true, that you would have no quarrel with the Board if the Board should advise you that certain services should be cut down in the interests of efficiency and economy?

A. I think probably we would welcome it because I cannot visualize their doing it unless we were losing money providing the service.

Q. So you do not think it is an unfair proposition to state that one of the functions of the Board of Transport Commissioners is to police the standard of service provided by the railways of Canada, and to control that standard?

A. I agree, provided they give us a level of

rates which will enable us to comply with these standards.

Q. Of course that goes with it; the standard of service and the rates go together?

A. It has not gone with it so far.

Q. In theory it should go with it?

A. We have hopes. We may be living in "Bleak House", but we still have great expectations.

Q. Turning to the second paragraph on page 1, the second sentence in the paragraph reads:

"The problem is definitely not one as to which part of the country should obtain special treatment." I presume you are limiting the words "special treatment" to geographic areas. You are referring to which part of the country --

A. I did not write this brief, Mr. Shepard. I could not say that was in the mind of the author. What was your question?

"The problem is definitely not one as to which part of the country should obtain special treatment." We believe in the equality of freight rates throughout the whole country. It is the only method by which the transportation burden can be fairly borne.

Q. I suppose you would also agree there is a higher percentage of revenue from competitive rates collected in central Canada than in other areas of Canada?

A. I don't know that I got that question.

Q. There is a higher percentage of the revenue collected from competitive rates collected in Ontario and Quebec than in the other areas of Canada?

A. I think that is probably true, but you would have to ask some of our traffic men if you wanted to be sure to get a correct answer.

Q. Would you consider that the phrase "special treatment" would include the treatment that shippers receive when they only pay competitive rates rather than standard rates?

A. No, I do not think that is special treatment at all; I think it is economic necessity.

Q. It would not be special treatment compared with shippers of another area who do not enjoy those rates?

A. No, because you start with the basic assumption that in the non-competitive area the rates are just and reasonable.

Q. I should like to direct your attention to the last short sentence of paragraph 2, which reads:

"Transportation is of national and not merely sectional importance."

Having made that statement, I wondered what you might have to say as to the duty and responsibility of the Dominion Government with regard to matters of national importance generally.

MR. EVANS: Government distinct from Parliament.

THE WITNESS: As applied to railways?

MR. SHEPARD: Q. Yes. Take it as applied generally first, if you do not mind, and then as applied to railways.

A. Of course the Dominion Government has a responsibility for the well-being of Canada generally. There is no argument about that.

Q. And as applied to railways?

A. As applied to railways, speaking of the Canadian Pacific, they made a bargain with the Canadian Pacific, and they stipulated with the Canadian Pacific that the railway should be efficiently maintained, run and operated

by the company forever, and as a necessary corollary that included the right to administer and control the undertaking. How else could we guarantee that we would efficiently maintain, run and operate the railway unless we had control of the undertaking? That does not mean that we quarrel with rate regulation, but it does mean that we ought to have the same opportunity that any other public utility has to meet competition when it arises. The railway does not create competition, Mr. Shepard, and if we fail to meet it, so long as the rates are not below a reasonably compensatory level, if we fail to meet competition the general railway burden on the country would be infinitely greater because the country as a whole must bear the cost of rail transportation. If we carry freight at a competitive rate which pays all the actual out-of-pocket costs, and in addition makes some contribution to overhead costs of the railway, it is in the benefit of every shipper in Canada, not merely the person who enjoys the competitive rate.

1. Would this be a fair summary of your views, that the Dominion Government had the initial responsibility in the national interest to make some arrangement so that transportation would be available, and then you say that transportation having been made available --

MR. CARSON: Are you drawing any distinction between "Government" and "Parliament"?

MR. SHEPARD: At the moment, no.

MR. CARSON: Which is it?

MR. SHEPARD: I think I said "Government".

MR. CARSON: Did you mean "Government" in a distinctive sense?

MR. SHEPARD: I should have said "Parliament" in

that sense because it was under an Act of Parliament you were originally incorporated.

THE WITNESS: They not only had a general responsibility; they had a specific obligation to British Columbia to procure the building of the Canadian Pacific.

MR. SHEPARD: Q. Having fulfilled that, as I understand you have just told us, by providing your Act of incorporation, you feel that the obligation and the responsibility of the Dominion Government is at an end, and that then the railway created by that Act of incorporation should be permitted to work out its own salvation?

MR. EVANS: Is that "Government" or "Parliament"?

MR. SHEPARD: I am referring to the railway.

THE WITNESS: I do not think it makes any difference. I will take it either way -- should be allowed to work out its salvation, yes, on the basis of just and equal rates for the services it performs.

Q. But you told us a few moments ago, Mr. Walker, that you had no objection to the Board of Transport Commissioners controlling your standard of service.

A. I do not think I said that in just the way you put it. I said to a large extent they do now control our services. I would not concede that the Board of Transport Commissioners had the right, for example, to say to us that we had to put on streamlined trains from coast to coast, not for a moment.

Q. Does it not really boil itself down to this, that Parliament by enacting the Railway Act had delegated to an administrative tribunal a function which it would otherwise have to do itself?

A. I think that is true.

2. And that you have no objection to that administrative tribunal having a hand in the standard of service provided by the Canadian Pacific Railway?

A. Provided they provide us with a level of rates which enables us to maintain that standard of service. We will not wait for the Board of Transport Commissioners to tell us how to improve our services. When we have the money we will improve them.

Q. Now, Mr. Walker, I had some notes on paragraph 3, but I may have covered that in going over your statement. In the last two and a half lines of paragraph 4 I find these words:

"-- it is in the best interest of Canada that Canadian Pacific is to continue to function as a privately-owned system."

I may say that personally I agree with that, and the Manitoba Government has expressed agreement with it, but I wondered if you would give us your reasons for that statement?

A. I think they are implicit in the whole history of the Canadian Pacific. We think we have been good citizens of this country, Mr. Shepard, and as successful a private enterprise as any that exists in Canada save only with regard to the last few years.

Q. Turning to paragraph 6 on page 2, you make reference to what would happen if regulation is carried too far. You state:

"--if the problem is allowed to become one hedged about with political controversy and subject to political solutions . . ."

I wondered what you had in mind, in what connotation you used the word 'political' there, because in my understanding there are two meanings. One is a fairly lofty

meaning and the other is one that perhaps has a little roughhouse type of connotation.

A. Well, one does not like to say anything invidious, but one does know that in the railway world there is a good deal of political pressure from local representatives of all kinds.

Q. What I mean, Mr. Walker, is that by using the word "political" in that context, are you implying that is something bad, from your point of view, of course?

A. Yes, I think I would go that far.

COMMISSIONER INNIS: Q. Before you leave that, may I intervene on the same question. You say:

"If regulation is carried too far and, above all, if the problem is allowed to become one hedged about with political controversy and subject to political solutions. . . ."

Is one to infer the second is a strengthening sentence with regard to the first?

A. As I say, I don't know what was in the mind of the writer, but I do not think it was the intention that regulation being carried too far was necessarily the result of political activities. There are two ideas there. That regulation can be carried too far I think is abundantly evident from the competition that presently exists between the railways and the trucks. I think one of the chief difficulties that railways suffer today is that they are in a straight jacket, whereas our competitors are completely free.

Q. If it does not carry far enough you may very well have these political controversies, that is to say, the situation at the present time with regard to the political complaints of the horizontal increase in rates. One would perhaps assume that regulation was being carried

too far. What sort of board should there be which will prevent you from being too closely regulated, and at the same time protect you from the type of political controversy that would hamper?

A. I think the answer to the question is that if you have an administrative tribunal which is judicial and impartial in its administration, then there is no field at all for the interference of government or politics.

Q. But can you get such a tribunal?

A. I think so.

Q. That is to say, the pressure of such powerful bodies as the railways, the provinces, the Supreme Court and the Dominion, seem to make it almost impossible to get the sort of completely independent type of board that you have in mind?

A. Well, I think we have had them in the past.

Q. At what period?

A. Well, I would not like to name individuals, but there was a time for a great many years when repeated appeals were made to the Privy Council from decisions of the Board of Railway Commissioners, and on every occasion, without exception, until the recent appeal from a decision in the 21 per cent case, the Governor in Council dealt with appeals by saying that the Board of Transport Commissioners had been set up to deal with these problems. It was amply equipped with experts, and as a result of years of experience they knew how these problems should be dealt with, and that it was quite unsound for a committee of the Cabinet to interfere. That rule was followed universally, I think I may say without exception, until the recent decision in the 21 per cent case. I do not hesitate to say that the attitude of the Government

was largely influenced by political pressure from the seven provinces.

Q. That is a political fact which there is no denying. On the other hand, there is no way of preventing the seven provinces from making that protest?

A. If you have a strong enough tribunal and an explicit statute, you should be free from that political interference.

Q. It would be interesting to see.

MR. SHEPARD: Q. Following up the line Dr. Innis has been pursuing, do you think that if the Board was entirely independent that the seven provinces would not come down and still make a noise here if they did not agree with the decisions of the Board?

A. Do I think they would not have come down?

Q. Yes.

A. No, I think they might still have come. In fact, the chances are they would have come.

Q. I think they probably would.

A. But if the Dominion Government had said: This is a problem for the Railway Commission, then the

provinces would have been confined to the presentation of their case in court, and they did not confine themselves to the presentation of their case in court. They brought great pressure to bear on the Government at a many interviews when the merits of the case were discussed and we were not represented.

Q. Two, to be exact.

A. That is what I call political pressure.

Q. I should now like to turn to paragraph 7.

Perhaps Dr. Innis has already discussed it with you to some extent. You refer to the desirability of a tribunal--

-- administrative in character but wise and judicial in its decisions, free from the stultifying effect of having its decisions subject to review and appeal by a political tribunal."

I do not remember who the witness was, but my friend, Mr. Evans, in cross-examining some time ago -- I think he was referring to the Dominion Government -- said they would have to have the wisdom of Solomon. Would you consider that would be a prerequisite for this court that you are suggesting now?

MR. EVANS: My friend is referring to a statement I made with regard to some suggestions about enlarging the Board's powers and making them an economic planning board. I said on that occasion that the Board would have to have the wisdom of Solomon to do the things they wanted done.

(Page 13425 follows)

MR SHEPARD: That is quite right. I was not too clear on my recollection.

Q. But would you consider that the Board that you are now suggesting would have to have anything less than the wisdom of Solomon?

A. To administer the Railway Act and arrive at a level of reasonable rates?

Q. Yes.

A. No; I think it requires nothing but ordinary capacity.

Q. A certain amount of arithmetic?

A. Yes.

Q. And not much more?

A. Oh, no, a great deal more. They must have the capacity to weigh evidence and proceed on judicial or semi-judicial lines, and arrive at a just decision.

Q. Referring back to that same sentence, Mr. Walker, you use the phrase "stultifying effect"; I wonder if you could just---

A. Well, I think it must have a stultifying effect on any administrative tribunal whose mandate in terms says that they are to have exclusive jurisdiction to determine questions arising under the Railway Act, and then in the same breath the statute allows an appeal to a body which, as I say, universally over the years has admitted its incapacity to soundly review the Board's decisions.

COMMISSIONER INNIS: Q. I was wondering whether there was any implication that the burdens imposed upon the Board under present legislation are too great. You place some emphasis here on the judicial character. Now, there are a great many other duties which the Board must keep in mind in following the statute. Does it mean that

its judicial character may be weakened as a result of those burdens?

A. No, I do not think that was the intention, sir, but I think there is perhaps room for both strengthening and enlarging the Board's functions.

Q. You mean strengthening and enlarging---

A. By staff and---

Q. In terms of judicial attitude, or as regards its other functions?

A. Well, administrative and judicial, I would say.

Q. You would not favour handing over some of the duties, for example, to the Department?

A. Oh, no, no; I think that would be a retrograde step, sir.

Q. Nothing in the statute setting the Board up?

A. I beg your pardon?

Q. You would not relieve their burdens in any way?

A. No; I do not think their burden is too great, sir.

THE CHAIRMAN: Q. Would you tell us, either now or later, how you would enlarge the Board's powers or duties? You have just said that.

A. No, I said enlarge the composition of the Board.

Q. Oh, the numbers?

A. The staff, the technical assistants, and possibly strengthen the personnel of the Board itself.

THE CHAIRMAN: I see; that is all right, then.

MR SHEPARD: Q. Following along Dr. Innis' line, Mr. Walker, you are familiar, no doubt, that there is a Bureau of Transportation Economics in the Department of Transport?

A. Oh, yes.

Q. And you are probably, no doubt, familiar that

it now does do work for the Board of Transport Commissioners?

A. I think very largely statistical work, yes.

Q. Would you be opposed to that?

A. Oh, no. That is economics.

Q. Then on page 3, sir, the top paragraph, paragraph 9, it is relating back to proposals put forward by the provinces, rather a general statement on the preceding page, and then you say:

"Such proposals, while often made in an honest belief that they are in fact adequate solutions"---

A. Where are you reading from?

Q. The top of page 3, paragraph 9:

"Such proposals, while often made in an honest belief that they are in fact adequate solutions of the problem, merely beg the real question."

I wondered, is the phrase "the real question" just a figure of speech, or is there some real question in mind there that we are begging?

MR EVANS: Would you put a specific case?

MR SHEPARD: Well, I am putting this specific language.

Q. I presume it is just a figure of speech?

A. No, I would not think it was a figure of speech.

THE CHAIRMAN: The paragraph you just read must be read in reference back to paragraph 8.

MR SHEPARD: I think, sir, it is just a general comment, but I just wanted to clarify it on the record.

MR CARSON: Mr. Shepard, would it help to read paragraph 8, which comes just before paragraph 9, and then you get the context.

MR SHEPARD: Perhaps it would. I will read that.

Q. "8. A number of proposals which are alleged

to offer an answer to the transportation problem will be dealt with in detail at a later stage of the submissions of the Company to your Commission. Part II of this submission will outline the position of this Company with regard to such specific proposals as are made in the outline submissions of the several intervening provinces."

Then we come back to the phrase "the real question", and I put it to you, Mr. Walker, that I simply presume that you are referring to all the issues raised there, and saying that we are not meeting any of them, or words to that effect?

A. Oh, no. I think "the real question" there means the restoration of ^ajust and reasonable level of freight rates and the equalization of freight rates throughout Canada.

Q. Then the next sentence goes on, Mr. Walker:

"In many cases such proposals only create new problems . . ."

Have you any proposals specifically in mind that have created new problems, or would if they were given effect to?

A. Well, not in my mind. I have no doubt that evidence will be introduced with regard to those. The only thing that occurs to me now is that, as I understand -- I have not been able to keep abreast of all the submissions or the proceedings before this Commission, but I understand the Maritimes are pressing for an increase in the advantage they presently enjoy under the Maritime Freight Rates Act.

Q. Well, I will have to let them speak for themselves on that.

A. And so on. They do not offer any solution of the railway problem, in my judgment.

Q. In paragraph 10, the opening statement:

"The system of rate regulation under the Railway Act has stood the test of time."

I wondered to whose satisfaction it has stood the test of time?

A. Well, I think it has stood the test of time even with the railways, although we are presently dissatisfied with the existing conditions, and we hope very soon to have them remedied.

Q. So my suggestion was going to be, sir, that it had perhaps stood the test of time with the railways but not with at least the seven provinces who have been objecting for the past three years?

A. Well, I would disagree with you.

Q. You would disagree with me?

A. Yes.

Q. Then going on to the next sentence:

"It has enabled a remarkably high degree of national prosperity to be attained."

I do not suppose that by the use of the word "enabled" you are suggesting that it was the factor in developing national prosperity?

A. Freight rates?

Q. Yes, the railways.

MR CARSON: It refers to the system of rate regulation.

MR SHEPARD: Q. The system of rate regulation, yes.

A. I think it has done a great deal. I do not say it is the only factor, of course. We ourselves I think were the greatest factor.

Q. You would not go along with my suggestion that perhaps the prosperity was attained in spite of the rate regulation?

A. No.

Q. Or the system of---

A. No, I would not agree with that at all.

Q. And I suppose you would agree that, while the C.P.R. may have developed Canada, the people who went out and settled had something to do with the prosperity of the C.P.R.?

A. Unquestionably.

Q. It is a two-way proposition?

A. We spent something like \$125,000,000 to induce people to come to Western Canada and to insure their prosperity after they got there.

Q. Yes, and to insure traffic to the C.P.R.?

A. And we give credit for everybody who has contributed to the success of Western Canada; but they came there very largely as the result of our colonization activities, the fact that we established demonstration farms, provided pure-bred livestock at cost to farmers, constructed irrigation systems, and a thousand other activities.

Q. But, without belittling those, I might suggest that those were not fundamentally motivated by any spirit of charity?

A. No, indeed, they were not; they were simply evidences that we firmly believe and always have believed that what is good for Canada, and particularly Western Canada, is good for the Canadian Pacific.

Q. Exactly, yes.

A. We spent our money on the faith of that belief.

Q. Then the next sentence refers to the machinery provided by the Act as having provided a rate structure which will move the maximum volume of traffic of all kinds. The machinery provided under the Act has provided a rate

structure which will move the maximum volume of traffic of all kinds. I was going to suggest, Mr. Walker, that, unless you have some other rate structure to compare it with, that statement might be a little broad?

A. Well, we have a rate structure to compare it with in the United States.

Q. No, but in Canada?

A. Oh, well---

Q. Having been the only rate structure that they have had here, you cannot say that it has moved the maximum volume, because I do not suppose even the C.P.R. would know whether some other rate structure might have moved more?

MR EVANS: Free transportation.

MR SHEPARD: Q. That is the only alternative?

A. I do not think that the movement of traffic of any kind in Canada has been impeded by the freight rate structure, because---

Q. Your statement in the brief is that it has moved the maximum volume.

A. When we find that it is impeded by a railway rate, if there is justification for moving the traffic, we try and make a rate that will induce it to move. That is the whole theory of rate-making, to move the maximum volume of traffic. That is the meaning of what the traffic will bear.

Q. Then turning to page 4, Mr. Walker, paragraph 14, the second sentence in that short paragraph reads:

"It" -- referring to the Canadian Pacific -- "takes pride in the fact that it has, together with the other railways in Canada, provided an efficient transportation service at a cost which compares favourably with that of any railway company in the world."

I should perhaps first state that I do not think anyone in

this room would disagree with that statement, but I just wanted to suggest to you that you are now referring to the cost to the shipper in that statement -- the cost to the freight payer?

A. Yes.

Q. And it naturally follows that the cost to the freight payer reflects or should reflect the railway operating cost?

A. Yes.

Q. And from that perhaps you would agree with me that railway operating costs would compare favourably with other countries of the world -- railway operating costs in Canada?

A. Well, I have not sufficient information at my fingertips to answer that question about railway operating costs. I do know that both in Great Britain and the United States railway rates have been raised -- in Great Britain 55% and they now contemplate an additional increase of 16%, and in the United States they have gone up between 60% and 70% -- and the only reason assigned for those increases is increased operating costs.

Q. Yes, but on a comparative basis, Canada and other countries of the world, it would probably follow that if the cost to the shipper is higher in other countries the cost to the railway of hauling the traffic would be higher?

A. No, not necessarily, because the American railroads are making much greater returns from their operations than we are.

Q. Of course, the return figure that you gave us a short time ago of 1.82%, that is based on C.P.R. figures?

A. 1.78%.

Q. 1.78%?

A. Yes.

Q. That is based on C.P.R.---

A. That is our actual return for the year 1948.

Q. On C.P.R. figures?

A. Yes, sir.

Q. I was going to suggest to you that on the operating cost comparison, various countries in the world, there would be a number of factors involved that would affect costs; it would be quite a complicated matter to make a proper comparison?

A. If you are going to take in the whole world, living conditions, wages---

Q. And the terrain?

A. And the movement of traffic, varies in every country.

Q. It would depend on the geography, the wage levels---

A. Yes, certainly.

Q. And almost an indeterminate number of factors?

A. Certainly. I do not think the same reasoning applies to the United States vis-a-vis Canada, but if you go to European countries, I do not really know anything about the conditions under which they operate.

Q. You would not suggest, Mr. Walker, that the operating conditions in the United States for American railroads are similar to Canadian operations?

A. Very similar.

Q. You would?

A. Yes.

Q. In spite of their larger number of railways and the circuitry of route that they have and other problems that we do not have to such an extent?

A. Well, they have more problems of railway competition, I grant you.

Q. Yes, that is what I had in mind.

A. They also have a much graver truck competition problem.

Q. I think that is all, thank you, Mr. Walker.

A. Thank you.

THE CHAIRMAN: Any other questions?

CROSS-EXAMINED BY MR FRAWLEY:

Q. Mr. Walker, at the top of page 8 of the statement you say something upon which I wish you would just elaborate a little bit. You say:

"It (Canadian Pacific) does assert that, having regard to the contractual obligations stipulated for by the Dominion and assumed by it, the Company has a right to such treatment . . ."

THE CHAIRMAN: It does assert?

MR FRAWLEY: It does assert, yes.

MR CARSON: Where did you stop the quotation?

MR FRAWLEY: I stopped at ". . . the Company has a right to such treatment . . ."

Q. I am going back really to the expression "contractual obligations stipulated for by the Dominion and assumed by it". You are referring to your Act of Incorporation ?

A. Yes.

Q. Chapter 1 of 1881; and you regard that -- Mr. Carson says, including the contract -- and you do regard that as a contractual obligation by the Dominion, between the Dominion and yourselves?

A. Yes.

Q. And you feel that those contractual obligations still obtain today many, many years after the passing of the statute?

A. Yes.

Q. That contract has some stipulations which are, one might say, a little hard on certain sections of Western Canada, are they not? I refer to the fact that the city of Medicine Hat, or Brooks, for instance, cannot assess you with business tax or cannot assess you in any way because your main line runs through those towns. That is a contractual condition which you say is as good today as it was in 1881?

A. I do.

Q. And you have recently maintained that situation in certain proceedings in Western Canada?

A. Well, where do you refer to?

Q. Well, there are some proceedings in the Province of Manitoba, I was thinking about, Mr. Walker, particularly.

A. If you are referring to the city of Winnipeg, it depends not upon the charter; it depends upon the bargain made between the City of Winnipeg and the Company.

THE CHAIRMAN: When?

A. In 1881 or 1882. There was a special bargain made between the City of Winnipeg and the Canadian Pacific under which the Canadian Pacific moved the main line from its first location through Selkirk to run through Winnipeg, and there was a special bargain made that required the exemption from taxation in Winnipeg itself. Mr. Chairman, you will find the whole thing dealt with in a recent Judgment of Chief Justice Williams of the King's Bench in Manitoba.

MR. FRAWLEY: Which is a short Judgment of 186 pages?

A. Something like that.

Q. I was not thinking of that; I was thinking of the recent reference to the Supreme Court of Manitoba by the Government of the Province of Manitoba on the more general question, that is your main line exemption given you by the statute of 1881.

MR. CARSON: Mr. Frawley, that question is not only sub judice in Manitoba but is also sub judice in a Saskatchewan reference that is now on the way to the Supreme Court of Canada.

MR. FRAWLEY: You stop me if you think I am going too far. All I was saying is -

THE CHAIRMAN: Mr. Frawley has not gone too far yet. All he has said is that there is a case.

MR. EVANS: I was not stopping him. He seemed to have forgotten the Saskatchewan reference and I wanted to have him factually correct.

MR. FRAWLEY: If you think this is improper, Mr. Walker, and the matter is sub judice, do not answer the question but I do not think you will think that. In those proceedings you have maintained that those tax exemptions of 1881 are still right and proper and should be adhered to now and from now on?

A. Yes.

Q. That is all. Now, would you also agree that another statute passed in 1897 with respect to the rates on grain moving in Western Canada should be interpreted strictly in accordance with the terms of the statute as it then was passed?

A. Insofar as the statute amounted to a contract with the Canadian Pacific Railway Company and in so far as it has been expanded by statute and by decisions of the Board of Transport Commissioners, yes. The Canadian Pacific has never suggested for a moment that the Crow's Nest Pass Act should

be repealed in relief of the Canadian Pacific; all it has suggested is that the result of that statute, as it has been expanded by subsequent legislation and as the application of the rates has been expanded by decisions of the Board of Transport Commissioners, throws an unfair burden on the rest of the commerce of the country, not on the ground that we should be relieved of a contract because it is a low contract.

Q. In other words, you really think, Mr. Walker, that you do not at any time agree that if the contract should turn out to be unprofitable, that nevertheless, you would carry it out at the expense of your shareholders?

A. Yes, I would agree with that. I am speaking of the contract and the railway to which it applies - not of the railway to which it has been extended.

Q. Now then, this may be somewhat academic, but would you then be satisfied to go back to the situation as it was in 1917 or 1918, thereabouts, when it first lost its original character?

A. Well, that is purely metaphysical. You cannot go back; all these things have happened. We are confronted with a condition.

Q. At that time you certainly received large gains when the original character was abandoned and it became statutory?

A. Well, I dare say it looked to the men who made the bargain like a large gain. To me it looks infinitesimal.

Q. Now then, you would dissent from the view made in this Courtroom by the Alberta Wheat Pool that it is a contract and should be enforced and viewed now as a contract?

A. It does not operate as a contract today, Mr. Frawley.

Q. Now, Mr. Walker, I wanted to ask you something before I pass on to what you say about the Canadian National. I want to just go for a moment into something you said to my friend Mr. Shepard about political pressure from the Provinces in the 21 Percent Case. Mr. Walker, you expressed disagreement with what you called ex-parte applications to the Governor-General-in-Council by the Premiers of the seven protesting provinces?

A. I did.

Q. Now, you know it happens that the memoranda which were used by the Premiers have since been published and have been made available to the public?

MR. CARSON: We asked for a copy finally, and we got it from you after a while.

MR. FRAWLEY: As of now?

A. I don't know, but if you say so I will take your word.

Q. You have probably at one time looked them over, I would take it. Now then, Mr. Walker, you know what all the provinces were talking about to the Governor-in-Council on some date of April 1948 and again in July of 1948 - this demand or a request for a Royal Commission to investigate the freight rate structure?

A. At that stage I do not know that it was.

Q. Well, you see, the documents are not here, and I have not my copies -

MR. CARSON: They do cover a great deal more than that, Mr. Frawley.

MR. FRAWLEY: I simply put this to you, Mr. Walker. Do you question my statement that the purpose of the interviews between the Federal Cabinet and the Provinces in 1948

was to secure relief from the investigation which had been ordered by P.C. 1487 and the setting up of a Royal Commission?

MR. CARSON: Just a moment. How can you ask a witness what was your purpose? You are the one to say what your purpose was.

MR. FRAWLEY: The documents are there.

MR. CARSON: He said he had not seen them.

MR. FRAWLEY: That is why -

MR. CARSON: What is the point in asking him what your purpose was?

MR. FRAWLEY: I did not think that my question would exercise my friend so much.

MR. CARSON: It is not exercising me.

MR. FRAWLEY: I am sure it is not exercising Mr. Walker in the slightest. I put ^{it} to you and I asked you if you disagreed.

THE CHAIRMAN: You are asking Mr. Walker does he know what your purpose was.

MR. FRAWLEY: My lord, with respect -

THE CHAIRMAN: You have not the material yourself?

MR. FRAWLEY: I have not got it here, no.

THE CHAIRMAN: Is it available?

MR. FRAWLEY: Yes, it is available.

THE CHAIRMAN: What do you want to know?

MR. FRAWLEY: Frankly, I want to question Mr. Walker's statement that there was political interference in 1948 which I thought he had related to the 21 Percent Case. Now, that is all.

THE WITNESS: Well, I can only judge by results. I know that those interviews took place. I know that subsequently the same seven provinces argued their cases before

the Privy Council when we were present and had an opportunity to reply. I know that following that there was a reference back to the Board of Transport Commissioners. There is no means of knowing whether, when you saw the Prime Minister and the Cabinet in camera, you confined your recommendation to a Royal Commission or whether you complained about the decisions of the Board in the 21 Percent Case. I was not there.

MR. CARSON: Now, Mr. Frawley, that you have opened this up and you have referred to what you put in before the Cabinet, so that the record be clear will you be good enough to file the material you are referring to?

MR. FRAWLEY: I will file it if the Board directs me. We have to send to Edmonton to get it.

THE CHAIRMAN: If we are going to discuss it, you will have to file it. Is there any of it here? Is there any written material?

MR. FRAWLEY: There were two memoranda left with the Cabinet and it was afterwards supplied to our friends of the railways.

THE CHAIRMAN: If you are going to question Mr. Walker, about it, you will have to produce it.

MR. FRAWLEY: Now, I am finished questioning Mr. Walker about it.

MR. CARSON: Now that I have asked you to file it.

MR. FRAWLEY: Mr. Walker, later in the year 1948 an appeal was lodged under Section 52 of the Railway Act or a petition was launched under Section 52 of the Railway Act complaining about the 21 Percent award?

A. I cannot say whether it was later or before; it was pretty well contemporaneous.

Q. I have not got the date of the petition -

MR. CARSON: Perhaps you would include it in the material.

MR. FRAWLEY: I think it was at the end of July, 1948, sir. I am only going to put one more question to you, Mr. Walker. You do not suggest that when the Cabinet directed the Board to make an apportionment between the rail earnings and other income of fixed charges and dividends that it was doing that as a result of what you call political pressure of the provinces?

A. I do not know to what extent it was due to political pressure. It followed a formal argument before the Privy Council but what took place before the argument I do not know.

Q. Well, let us be perfectly clear, Mr. Walker. I only want to know how far you go. We did file a petition. We did have a written document called "our submission" and we did argue in open session with the Governor-in-Council. That was sometime at the end of September 1948 and then, as a result of that, P.C. 4678 was passed which referred the matter back to the Board. Now, I am only putting it to you or asking you whether or not you think anymore than the submission which we made to the Cabinet that time when you were there warranted or resulted in or had anything to do with the passing of 4678?

A. That is purely metaphysical speculation. I cannot say.

Q. You think there might have been something more than the submission we made on those two days?

A. Yes, I think there might have been a great deal more.

Q. Now, I only want to discuss with you for a moment what you say about the Canadian National. First of all,

let me put this general proposition to you. . There are a good many sections of Canada which depend wholly on the service of the Canadian National for railway transportation?

A. I would not say "a good many".

Q. Well, certain sections of Northern Alberta, for instance, are in that situation?

A. Well, you might equally say there are certain sections of Northern Alberta that depend solely on the Canadian Pacific.

Q. That is true, but there are certain sections of Northern Alberta which depend on the Canadian National?

A. What you have reference to?

Q. The railway lines I have reference to?

A. Yes.

Q. The railway line running on the north side of the river from Edmonton to Cold Lake in the St. Paul Deville area, right in there.

A. We have a line south of the river not very far.

Q. Yes, as we know from the rate on salt and it is the line running west to Jasper which is an exclusive Canadian National area?

A. Yes.

Q. Now, with that little bit of background, I want to call your attention to what you say on page 4, that the employees of the Canadian National are serving a railway which, to put it briefly, does not pay its way. Now, you know, of course Mr. Walker, you read from time to time the annual reports of the Canadian National I take it, and you know that in 1946 they had an operating profit of something like \$35 million which was turned into a deficit of something like \$9 million because the railway had to pay fixed charges of \$44 million. - roughly, I think, just in round

millions of dollars?

A. In what year did you say?

Q. 1946 I think is the year in which they had a deficit of \$9 million - an operating profit of \$35 million and fixed charges of \$44 million leaving a deficit of \$9 million?

A. Yes, directly due to the increase in the cost of railway operations.

Q. But I am calling your attention to the fact, Mr. Walker, that it did have an operating profit of \$35 millions before that income was applied to its fixed charges. That is my point.

A. Well, I will have to check that. What page are you looking at?

Q. What I am really doing, Mr. Walker, is, I am speaking from memory of 1946.

MR. EVANS: Page 52 of the Canadian National submission shows the result of operations for a number of years - Table No. 10. They include 1946.

THE CHAIRMAN: We will adjourn now for lunch.

- -

The Commission adjourned at 1.00 p.m.
to meet again at 2.45 p.m.

(Page 13450 follows)

A F T E R N O O N S E S S I O N

THE CHAIRMAN: Very well, Mr. Frawley.
CROSS-EXAMINATION OF MR. G.A. WALKER, K.C. - resumed
MR. FRAWLEY: Q. Before we adjourned, Mr. Walker,

I was calling to your attention the statement at the bottom of page 4 that the Canadian National does not pay its way; and I called attention to what happened in 1946, and I was only able to give you the figures very approximately from a slip of paper I have here. I think they had an operating profit for the payment of interest of something like \$35,000,000. Isn't that right?

A. That is the figure for 1943, Mr. Frawley.

Q. 1943?

A. I beg your pardon, you are quite right. You say they had income available for the payment of fixed interest of \$35,000,000 in 1946.

Q. That is right.

THE CHAIRMAN: Q. Where does that statement appear?

A. At page 52 of the Canadian National brief.

MR. FRAWLEY: Q. It also appears in the Canadian National Annual Report. I have not got the report for 1946, but they have all been put together in the Canadian National submission.

MR. O'DONNELL: I feel sure it must have been a slip this morning. There has not, as I understand it, been any operating deficit since the consolidation of the road in 1923. There have been deficits due to heavy fixed charges, but never an operating deficit on the Canadian National since that time.

MR. Frawley; Q. We have it now that in 1946 there was a net income available for the payment of interest of some \$35,000,000?

A. Yes.

Q. In other words, that was the result of a year's operation.

A. So far as net operating income is concerned, yes.

Q. That is right. And then that was turned into what you have described as - and I am just speaking from memory - an overall deficit of about \$9,000,000 by reason of the payment of fixed charges amounting to about \$44,000,000.

A. That is correct.

Q. That is right. Then in 1947 - and I am reading from the 1948 Annual Report - the comparable figure of net operating income was \$27,939,000?

A. That is correct.

Q. And that was turned into an end result or deficit of \$15,885,000 by virtue of the fact that the railway was required to pay interest on funded debt in the amount of \$23,821,000?

A. No, \$43,824,000.

Q. I think I am right, I have it broken down; interest on funded debt in the hands of the public, \$23,821,000; and interest on Government loans, \$20,002,000; that would give us the figure which you have mentioned.

A. That's right.

Q. Then you will find that in 1948 they had a net income at that time for payment of interest - what the Canadian Pacific call net operating income - of \$11,297,000.

A. That is correct.

Q. And that was turned into a deficit of \$33,532,000 by reason of the application of payment of interest on funded debt in the hands of the public amounting to \$23,202,000/ ^{and} payment of interest on Government loans of \$21,627,000?

A. That is correct.

Q. Don't you think that it is a little too much to say

that the Canadian National is not paying its way, in the light of these figures I have read to you?

A. I have only adopted their paraphrase of their own submission.

Q. I see. You take it out of their own mouth?

A. They say that the morale of their officers is suffering because they show operating deficits, or over-all deficits, if you like.

Q. You can see of course that there is a very serious distinction between an operating deficit and this end result deficit, after taking care of these fantastic fixed charges?

A. Oh I do not agree that they are fantastic.

Q. You would reject the word "fantastic" then?

MR. EVANS: Apex.

MR. FRAWLEY: It is certainly the apex of fixed charges.

MR. FRAWLEY: Q. Would you not say that on a mile for mile basis, they are pretty steep, that on a mileage basis these fixed charges are pretty steep?

A. I have not made any calculation.

Q. You say you have not made any calculation. Then are much, much worse than yours in the Canadian Pacific.

A. Mile for mile?

Q. On a mileage basis, yes?

A. That may be so. I have never analyzed the figures.

Q. Well now, dealing with something which is just very closely related to that, it would seem that this business of putting on to the Canadian National the purchase of bankrupt roads, that is not good enough, is it?

A. Well, that is a matter of Government policy.

Q. You do not mind criticizing Government policy, do you?

A. Oh yes I do.

Q. Don't you think you were pretty close to doing so this morning when you were talking about political pressure?

A. No.

Q. I do not mind your criticizing Government policy.

A. I may not assent to your criticisms but you can make them.

Q. That's right. We will have it out in the open air anyway. There was a railway taken over by the Canadian National the other day called the Temiscouata Railway?

A. Yes.

Q. Your Board of Directors would never have passed a resolution for the taking over of that railway, would they?

A. Not as a business proposition, no. But you won't be able to find the operating results of that with a microscope in the Canadian National returns.

Q. You think it it would take a microscope to find it?

A. Yes.

Q. It would depend on how many railways like the Temiscouata were coming in. It would soon become quite visible if you had many like them?

A. Yes.

Q. That's right. And according to what I was told the other day, the Temiscouata Railway had not paid dividends in its 50 years of operation.

A. There are a lot of other railways in the same condition.

Q. But if you had an opportunity to take it or not to take it, you would not have much difficulty in making up your mind?

A. No.

Q. A man from Northern Quebec told us here the other day that he wanted an extension in the Metagami Country.

A. We meet requests like that every little while.

Q. You may meet them, but you send them away.

A. We may or we may not.

Q. How long has it been since you bought another railroad like the Temiscouata?

A. We have not bought anything at all.

Q. The man from Northern Quebec said that if it had been the Canadian Pacific Railway which had been contiguous to his hopes and aspirations, he would not have thought of asking the Canadian Pacific to buy it, but he thought it was all right to ask the Canadian National to do ^{so,} because the Canadian National was a public enterprise. Now I put it to you as a experienced railroad executive: Do you think it is good enough for the building up of the morale of the Canadian National, or is it good enough for the building up of our country that the feeling should go abroad that the Canadian National is just a catch basin for bankrupt roads?

A. I think it is quite wrong.

Q. But that idea is pretty well prevalent, is it not?

A. I do not know.

Q. Oh yes you do. Don't you think that if the Canadian Government wanted to relieve the shareholders or the community or whatever it was of the incubus of the Temiscouata Railway /they should have put it into the hands of the Department of Transport, or taken it over qua Government, not as qua Canadian National Railways?

A. I think that would have been quite sound railway policy.

Q. But at the moment the Canadian National has got to take it in and add to its operations its operating deficit?

A. I do not know.

Q. But it seems to me that the Temiscouata simply comes in and adds to these already unprofitable lines of the Canadian National Railways?

A. There are many things I would quarrel with in Dominion Government policy. I have a large quarrel with their spending \$300,000,000 on a transcontinental highway to compete with their own railway, and which will make transcontinental trucking possible. Moreover, nobody suggests for one minute that the truckers will pay even an infinitesimal fraction of 1% of the cost of that highway.

Q. Before we get to the highway, I have got another one of these railways like the Temiscouata to ask you about. You know that the Canadian National has already taken over the Newfoundland railway?

A. Yes.

Q. And it is accepted on all sides that the Canadian National Railways will add, thereby, millions to its operating deficit, to the operating deficit of the Canadian National Railways.

A. I do not know whether that is true or not.

Q. But if there is a deficit there - and I heard somebody say it would be \$6,000,000 for 1949 -

A. An operating deficit?

Q. Yes.

A. \$6,000,000?

Q. Oh, you think that it is not enough?

A. I would be astonished if it was that much.

Q. They may do that down there, I do not know.

A. I dare say you could get all these figures from the Canadian National officers.

Q. Even if it were only \$1 million for the sake of my illustration, do you think that is good business for the morale of the Canadian National as a corporation, or of its employees as individuals, or for the good of those parts of Canada which depend upon the Canadian National exclusively, that the railway should be burdened with the deficit of the Newfoundland Railway?

A. I would not relish it if I were a Canadian National officer. On the other hand, you know the Canadian Pacific has not always been governed by geniuses. We have made some bad investments.

Q. You have been doing better lately?

A. Within a small amount we have just as much unprofitable mileage as the Canadian National have with all these dead horses, except those that are being added at the present time.

Q. You made some good investments too, did you not, just before the turn of the century?

A. A few.

Q. It is a fact that what you are getting out of Consolidated just now is getting right up in the same neighbourhood as your net operating income?

A. I think in the last few years it is about equal to it. It is the only thing that has enabled us to pay any returns to our shareholders at all, because railway revenues have not contributed anything.

Q. It is heresy, of course, for people to ask that that should be taken into the pot before financial need is determined?

A. Not heresy but nonsense.

Q. Nonsensical heresy. The money came of course from the ordinary operating revenues of the company to make that investment in the first place?

A. Oh no, it did not.

Q. Where did it come from?

A. In the first instance perhaps some of it may have come from there, but it has largely come from the operations ^{of} Consolidated Smelters itself.

Q. Yes, but I am talking about --

THE CHAIRMAN: Q. The operations of what?

A. Of Consolidated Smelters itself.

MR. FRAWLEY: Q. I am talking about the original investment of \$8 million. That must have come out of transportation earnings?

A. The original investment was not \$8 million; it was something like \$220,000, fifty odd years ago.

Q. About 1897?

A. Yes.

Q. You tell me it was only \$200,000?

A. Originally.

Q. The investment that originally was \$200,000 last year returned over \$20 million?

A. It has grown immensely since then.

Q. Of course it has.

A. You talk about the original investment of \$8 million; the \$8 million is the par value of the stock that we own.

Q. That is true, but you say the original investment was in the hundreds of thousands, only \$200,000?

A. Yes.

Q. And the money that was used to make that investment of course came out of transportation earnings?

A. No, not necessarily; it came out of the company's treasury, not necessarily transportation earnings, from any source that we had cash available.

Q. I did not hear your last words.

A. I say it came out of whatever cash we had available.

Q. But in 1897, what other revenues were there of a substantial character other than transportation revenues? I say 1897; correct me as to whenever the date was. I think it was about that time.

A. I do not recall the date myself, Mr. Frawley, but we had revenues from communications, some hotel revenues, other investment revenue. I cannot go back to 1897.

Q. But the hotel revenue was very small in 1897?

A. Yes. If it suits your purpose I will concede that the whole \$220,000 was earned by the railways, if you like; it makes no difference to my position.

Q. You are very obliging, Mr. Walker. In any event, notwithstanding the fact that you found the money to make the investment from your transportation earnings, nevertheless you say it is quite right and proper that should be retained separate and apart from the transportation earnings, and that it does not matter how wealthy the company may be as a result of this investment or its communication profits or hotel profits; nevertheless it is entitled to go to the regulatory body and prove financial need arising solely out of the transportation portion of its business?

A. Precisely. I think it would be just as unreasonable to take the contrary view and to say that a union worker should not receive the same rate of pay as his fellows because he was thrifty enough to buy a cow and make a little money selling the milk to his neighbours.

Q. Mr. Walker, at page 12 you seem to point out what you fear may happen in the future under the present

state of affairs. I do not want to read the whole sentence. You say:

"The danger of injury to the Canadian Pacific (and it cannot be too strongly emphasized) lies in the suggestion that the Canadian National results might be used as a yardstick on the footing that its requirements should be limited to earning its fixed charges (after these have been substantially reduced) and a small surplus, without any assurance or direction that the system should and must be allowed to earn a fair return on the investment in railway facilities."

I take it you would say that if some new mechanism was devised whereby the Canadian National would be allowed to earn a fair return on the investment in railway facilities that the danger of injury to your company would be largely removed?

A. Yes, if it was a satisfactory return.

Q. I take it then you would have no objection to scaling down the fixed charges to something reasonably comparable to your own railway on a mileage basis?

A. No, Mr. Frawley, if the investment in railway facilities of the Canadian National is properly represented either by share capital or funded debt, then I say we have no concern with the proportion of the funded debt and the proportion of share capital provided that the Canadian National is under obligation, as any other private railway company must be, to earn a fair return on the capital investment.

Q. Mr. Walker, you have agreed with me that it would be right and proper that the Temiscouata Railway should be put into a department of government, or at least should be looked upon by the government as government

rather than the Canadian National. You agreed with that proposition a few moments ago?

A. As I say, I think if I were a Canadian National officer I would not relish being saddled with another bankrupt railway.

Q. I would like to get it a little higher than a Canadian National officer. Speaking as a citizen of Canada and a large taxpayer as you often refer to yourself, do you not think that would be about the right and proper thing to do? Surely the next step would be to find out how many other Temiscouatas there were in the system and do likewise with them. That would also be right?

A. You would have to eliminate a lot of our unprofitable operations if you are going to find any proper basis of comparison.

Q. We will get to you in a little while, but at the moment, speaking of the Canadian National, would that not consistently be the right and fair policy?

A. I think you would have to look at the situation of each individual railroad.

Q. And large sections of the railroad; in other words, expressed in one word --

A. You see a railroad that does not pay any return today may pay a handsome return tomorrow. For a great many years the Northern Alberta Railways were a burden on both railways because we owned it jointly. During the war it made handsome profits, and now it is back in the doldrums again.

Q. Back to normal. Mr. Walker, you said that a railway that is showing a deficit today may show a nice profit tomorrow, but you would not have any hesitation

1870

1871

1872

1873

1874

1875

1876

1877

1878

1879

1880

1881

1882

1883

1884

1885

1886

1887

1888

1889

1890

1891

1892

1893

1894

1895

in brushing aside that temptation if somebody offered you the Temiscouata Railway?

A. No.

Q. There is no doubt about that. Assuming there are other sections of the Canadian National which they have inherited which are like the Temiscouata which they recently inherited, do you not think it would be right and proper for someone to examine those sections of the railway with a view to taking the burden of those lines off the back of the rest of the system?

A. No, I would not go that far, Mr. Frawley, because if you did that you would have to look at their own unprofitable mileage that they built and paid for just as we did. We get to a point where the state would be carrying all the unprofitable lines and the railways would be enjoying the profitable ones.

Q. But you agree with me, Mr. Walker, that if the Canadian National Railways, as it was created some years ago, had been allowed to exercise any judgment, they would not have taken over as a part of their operating lines a lot of these railways?

A. That may be.

Q. Yes. Then it was the state that placed these unprofitable lines upon the Canadian National willy-nilly?

A. You might go back to the beginning and say the Grand Trunk Pacific and the Canadian Northern were bankrupt, and therefore the Canadian National should have no responsibility for them.

Q. Perhaps in some degree that is still so today. You have to be consistent about it and fair, and I am expecting to get your views as a prominent citizen of this country and a large taxpayer.

A. I am here speaking for the Canadian Pacific, not as a critic of Government policy.

Q. But you will not run away from criticizing Government policy if you think Government policy should be criticized. That is right?

A. No, I would not like to say that.

Q. Well, you criticized it a moment ago. I do not like to be talking about the same thing all the time. You really criticized it with regard to the Te¹⁹⁴⁻³mscouata. That is something your Board would not have done?

A. I did not criticize it. I say we would not have bought it.

Q. That is good enough. We will accept that. You do think these fixed charges can very well stand some further scaling down, do you not?

A. Mr. Frawley, as matters stand, seeing that the Canadian National as a Government-owned railway cannot become bankrupt and we as a private enterprise can, I do not see that it makes the slightest difference whether the fixed charges are reduced or not, because if you take it out of the funded debt and put it into capital it still should earn a fair return.

Q. I thought you did not like everything that was going on from day to day in the Canadian National now?

A. Where did you get that impression?

Q. I got it from the general tenor of your statement. Are you quite satisfied that there should be nothing done at all with the Canadian National, just leave it exactly as it is?

A. With regard to fixed charges?

Q. Fixed charges, and the fact it does not have to earn any rate of return?

A. Of course I am not satisfied.

Q. That is it. I want to get at this position of the Canadian National operation you are not satisfied with. One is you think it is rather unfair they are competing against you and they do not have to show a profit, they have not the obligation to make a return to shareholders?

A. Primarily my argument is that if there were a satisfactory rate level in effect they would be earning a profit, notwithstanding their present fixed charges, and the figures amply justify it. Will you permit me to lay a foundation for what I say?

Q. Indeed.

A. In 1941 with gross revenues of \$304 million they paid their fixed charges and had a surplus of \$4 million. In 1942 with gross revenues of \$375 million they earned a surplus of \$25 million. In 1943 with gross revenues of \$440 million they earned a net surplus of \$35 million. In 1944 with \$441 million of gross revenue they earned a cash surplus of \$23 million. In 1945 with gross revenues of \$443 million they earned a cash surplus of \$24 million. In 1946 with \$400 million gross revenue they had a net deficit of \$8,900,000. In 1947 with \$438 million gross revenue they had a net deficit of \$15,800,000.

Q. They had an operating profit of \$27,900,000 too?

A. I am talking about their net.

Q. After fixed charges?

A. Net cash surplus or deficit.

Q. After fixed charges?

A. Yes. They had a net deficit in 1947 of \$15,800,000. In 1948 with \$491 million of gross revenue

they had a net deficit of \$33 million.

Q. In the same year they had net operating income of \$11,200,000?

(Page 13470 follows)

A. Yes. Now, those figures to my mind demonstrate conclusively these things, that with substantial operating revenues in 1943, 1944 and 1945, they earned substantial surpluses, and it was only in 1946 that the full impact of wage increases and material costs was felt, and no advance adequate to meet those increases was made, and the same result is accentuated in 1948. The fact is that between 1939 and 1945 there were progressive increases in wages and a substantial increase in material costs which took the form of various cost-of-living bonuses, but, while they were substantial, they were not heavy enough to offset the tremendous increase in gross revenue from war traffic. They aggregated to the end of 1945 about \$26 million a year; that is to say, the increase in the cost of operation to the end of 1945 was approximately \$26 million over the cost of operation on the same basis of traffic. But in 1946 the railway had to saddle wage increases which cost the Canadian Pacific \$17,000, and I do not know what the figure was for the Canadian National, but it was substantially greater, and in 1947 or 1948 we had to absorb a wage increase which cost the Canadian Pacific \$26 million, and the Canadian National a much greater figure; and on top of that we had increases in the costs of materials representing an increase of \$45 million, or 74.5% over the 1939 basis.

Now, the simple fact is that if freight rates had kept anything like pace with the increase in the costs of operation, the Canadian National would still be earning surpluses over and above its fixed charges, and these surpluses that I have mentioned as having been earned in 1941 to 1945 inclusive are a very modest return indeed on the capital invested in the Canadian National Railways

other than funded debt. In other words, while they have paid what seems like a high fixed charge, these surpluses that they have earned over and above fixed charges are to my mind a very inadequate return on the capital invested in the Canadian National Railways that is not represented by funded debt.

Q. You said a moment ago, Mr. Walker, that in 1947 or 1948 you had to absorb an increase, a wage increase, which cost the Canadian Pacific how many millions?

A. Well, I may be wrong as to dates; I will give it to you accurately, Mr. Frawley. Up to the end of 1945 our aggregate cost for increases in wages over the level of 1939, and on the same comparative volume of traffic, was \$26,139,000. Now, in 1946 -- I am wrong; I said 1945, I think -- in 1946 we had to absorb a wage increase amounting to \$16,300,000, and in 1948 we had to absorb another wage increase which cost us \$27 million.

Q. Now, when you say you had to absorb that wage increase which cost you \$27 million, that is the one that was settled in the atmosphere of a threatened strike?

A. Yes.

Q. And it was settled after the Government of Canada intervened?

A. It was.

Q. And when you say you had to absorb the wage increase that cost you \$27 million, did you have to absorb that because the Government intervened?

A. Well, I think that is an unfair question, Mr. Frawley.

Q. Well, I am told that it could have been much less, that is all.

A. Are you?

Q. Ten cents instead of seventeen.

A. Well, we wish it might have been.

Q. But, anyway, you say you had to absorb that?

A. We had to pay it.

Q. You see, to be perfectly frank---

THE CHAIRMAN: Mr. Frawley, would you please explain what you are saying there. You say you were told what?

MR FRAWLEY: I beg your pardon, sir?

THE CHAIRMAN: Would you please explain what you have just said?

MR FRAWLEY: I will be very glad to, sir.

THE CHAIRMAN: About something you were told.

MR FRAWLEY: About it being ten cents instead of seventeen? That it might have been settled at ten rather than at seventeen.

THE WITNESS: Does anybody seriously imagine, Mr. Frawley, that we voluntarily paid seventeen cents?

MR FRAWLEY: Q. No.

A. \$17 million more than we were compelled to pay?

Q. Then when you say you had to absorb it, Mr. Walker, you say you had to absorb it because the---

A. We had to pay it or the nation would have been visited with a national disaster in the shape of a railway strike.

Q. Now, Mr. Walker, when you are talking about the Canadian National and what you call the modest return they have made on their investment, do you say seriously that if the freight rates were increased the Canadian National's house could be put in order?

A. I haven't any hesitation in saying so.

Q. Then do you mean that the whole rehabilitation of the Canadian National can be worked out by higher freight rates?

A. Oh, as I said before, Mr. Frawley, I do not think it makes any difference really, since the Canadian National cannot go bankrupt, whether the money is applied to the payment of fixed charges, funded debt or stock. The difficulty with regard to a private enterprise is that if their fixed charges were on a comparable basis, in times of depression they would go bankrupt, but the Canadian National cannot go bankrupt unless the Government goes bankrupt, which is not a likely probability.

Q. All that I was concerned about was to what extent you were looking to freight rates to pull the Canadian National out of this what I call rather serious situation when it has to pay \$44 million of fixed charges every year. You did not mean to say that you thought that the freight rates should be so high that they could earn enough to pay \$44 million in fixed charges?

A. As I say, I think they ought to earn a fair and proper return on the investment, and if they do that it does not matter so far as the Canadian Pacific are concerned whether they apply that to the payment of fixed charges on funded debt or whether they apply it as a return on the investment or capital stock or what have you.

Q. Mr. Walker, is that the same as saying, then, that you think that their fixed charges could be left at \$44 million, because it is owed, almost half of it, to the Government of Canada -- that those fixed charges could be left there, and that the railway freight rates should go up sufficiently to enable them to earn enough money to pay \$44 million in fixed charges?

A. Yes.

Q. And that might require---

A. I think the result proves it in 1941 to 1945.

Q. And, as you said this morning,

if freight rates had to go up forty, fifty per cent---

A. Oh, no.

THE CHAIRMAN: Q. Pardon me. In the years that you mentioned, it was volume of traffic, was it?

A. Yes, sir.

Q. The rates were the same?

A. The volume of traffic, and the volume of traffic short, or, rather, without the impact of these subsequent increases in the costs of operation.

THE CHAIRMAN: Oh, yes.

MR FRAWLEY: Q. But you have the same fixed charges now as you had during the war, but you had the war traffic to enable them to pay these large fixed charges; that of course is obvious?

A. The fixed charges have been coming down quite substantially; they have come down from \$56 million to \$44 million.

Q. When were they \$56 million, Mr. Walker? I have not got that.

MR EVANS: 1932 and 1933.

THE WITNESS: 1932 and 1933.

MR FRAWLEY: Q. If you have all the figures, what were they at the beginning of the war, in say 1939?

A. \$50 million.

Q. And so during the war--

A. 1948 they are \$6 million less.

Q. They are \$6 million less; and they have not got the war traffic, of course, now that they had then?

A. Well, we have got a very high volume of traffic, Mr. Frawley. It is diminishing from day to day, but we have got a volume of traffic today which on any reasonable freight rate level would enable us to be prosperous and enable the Canadian National to remain in the black. That

THE [illegible] [illegible]

[illegible]

THE [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible]

[illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible]

[illegible] [illegible]

[illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

is my view.

Q. That is just what I want. You do say, then, that the level of freight rates should be such that the Canadian National should remain in the black, and having in mind that the present state of affairs is, they have \$44 million of fixed charges?

A. Beg pardon?

Q. That they have \$44 million of fixed charges?

A. Yes.

Q. And you think that the freight rate level should be such that they should be allowed to earn that over and above their net operating income?

A. Yes.

Q. Thank you, Mr. Walker.

COMMISSIONER ANGUS: Q. Mr. Walker, while we are at that point, may I ask for a little clarification of the paragraph beginning at the bottom of page 12 of your statement? A. Yes, sir.

Q. "We strongly urge that the first and essential step to be taken is to establish a just and reasonable rate level . . ."

Do you mean by "establish" that this Commission should compute what such a level would be, or do you mean that such a level should actually be put into effect?

A. I do not suppose, sir, that your Commission has any power to establish a rate level, but I suggest that in your recommendations your first recommendation should be that a satisfactory rate level should be established before the question of the recapitalization of the Canadian National is considered.

Q. And therefore that we should not ourselves consider the revision of the capital structure of the Canadian National at all?

A. Well, on a contingent basis you might, but, as I say, the Canadian National is not a railway whose solvency can be jeopardized by the amount of its fixed charges, and it is no concern of ours if the fixed charges are reduced, provided it is accompanied by a declaration that, no matter what the amount of the fixed charges, the Canadian National should be entitled, if it is to be used as a yardstick for the measurement of freight rates, to earn a fair return on the proper investment in railway facilities.

Q. The point then is, do you think that this Commission should go further in suggesting what the standard for a fair return should be? We have been asked to suggest amendments to the Railway Act for the guidance of the Board of Transportation Commissioners in dealing with general freight rate cases, and conceivably we might suggest for the guidance of the Board that the principle should be laid down by Parliament that a fair rate of return, which they would proceed to define, should be---

A. I would think that would be a very desirable and proper recommendation for this Commission to make.

Q. Because the words "just and reasonable", when they have to be interpreted both by the people who have to pay the rates and the people who have to receive them, are apt to be---

A. It leaves good room for disagreement, I quite agree.

Q. And will the submission of the Canadian Pacific Railway make clear what they consider a fair standard of net earnings would be?

A. I think I am correct in saying it will, sir.

MR EVANS: Go ahead, Mr. Walker.

THE WITNESS: I say I think I am quite correct in saying that it will. We will have some detailed evidence to put before you on that subject.

(Page 13479 follows)

COMMISSIONER ANGUS: In relation to both railways or using the Canadian Pacific alone as a yardstick?

A. Well, assuming sir, that the proper investment is found in both cases, I see no reason why the same rate should not apply to both. Otherwise the taxpayer in the case of the Canadian National bears some part of the cost of transportation which I think is uneconomic and unsound.

Q. As I understand what you have been saying to Mr. Frawley, it really amounts to this, that a figure would have to be computed for the investment of the Canadian National that is reasonably comparable to the investment of the Canadian Pacific, I mean excluding the same things and including these same things?

A. I think so.

Q. And then to proceed from there having a common standard.

A. I think the accepted practice in the United States now is to take the book value of the property, but I would not say that that necessarily must be adopted. Any fair basis of comparison could be drawn. We won't quarrel with it.

Q. I wondered if it would be of any assistance in drawing a fair basis.

MR. COVERT: I was^s just going to say, Dr. Angus, that my understanding of the Canadian Pacific's submission is that the rate of return should be fixed by the Board of Transport Commissioners.

COMMISSIONER ANGUS: I understand that, but I was considering for the moment the rate basis.

MR. COVERT: On the rate basis again my understanding is of the Canadian Pacific Railway's submission, that it

should be the book value less depreciation.

MR. EVANS: That was the statement we made to the Board.

COMMISSIONER ANGUS: I understand that is the way in which the Canadian Pacific Railway's rate basis is calculated. Is it suggested that the same type of calculation should be used for the Canadian National including the investment in the Newfoundland Railway, for instance, and that sort of thing?

MR. EVANS: No sir, we make no submission about what the rate basis on the Canadian National should be. What we do say - I think it perhaps would be presumptuous with our limited knowledge, to make any suggestion of that kind but what we do say is that it should be allowed to earn a reasonable return on a reasonable basis of investment level. Now, there may be differences in view of the special situation of the Newfoundland Railway. We have no suggestion to make as to that, but our prime concern would be that insofar as they are to be used as a yardstick, some reasonable basis of investment and some reasonable return would have to be found. If they are going to use us, then we have offered evidence as to what our return should be and what our basis should be.

COMMISSIONER ANGUS: I think I understand your difficulties very clearly but I hope you understand ours equally clearly. It is extremely difficult for us to make a recommendation which obviously must include a method, if we are to follow this out, a method of calculating a suitable and comparable rate basis for the Canadian National Railway. It is very difficult for us to do that without some assistance.

MR. EVANS: I quite realize your difficulty and I would like to be of assistance, but I do not think it lies within our power even to say what that should be. I am sure my friends of the Canadian National might offer something but we can offer to this Commission as we did to the Board any assistance with relation to our own property and we say we ought to have that for the Canadian Pacific, but if you are going to disregard the Canadian Pacific as a yard stick, then you ought to protect us by having our competitor in a position to earn a fair return. Now, beyond that we cannot go.

COMMISSIONER ANGUS: No, but the figure for the Canadian Pacific, if we accept it, is an absolute figure and the difficulty is to get two comparable figures, two figures constructed in the same way, one for the Canadian Pacific Railway and the other for the Canadian National.

MR. EVANS: If you are speaking of rate basis there is not the same difficulty. If you are speaking of rate of return, then that depends on factors which have to be evaluated on the evidence of experts as we put in in the 20 Percent Case. Now, the book value of the investment is a very easy figure to arrive at.

COMMISSIONER ANGUS: And you think there then might be two different rates of return, one for each railway?

MR. EVANS: Yes, it would amount to this, would it not, that if you are going to lump two companies and use both as yardsticks, you would have to compromise between the two. In the United States there is a lumping together of property investment and net return is fixed for each individual railway. Now, if you are going to use the Canadian Pacific I can help you. I can give you exactly what we think it should be. If you are going to use the Canadian National separately, then that requires information that we have not

got.

COMMISSIONER ANGUS: I think we see each others difficulties.

THE CHAIRMAN: I think it may help now in the considerations before us to just see what express commitment is laid to us under this condition concerning the Structure of the Canadian National. You will find it in Clause (c) of Paragraph 2. Now, we are instructed:

"to review the capital rate structure of the Canadian National Railway Companies and to report on the advisability or the inadvisability of establishing and maintaining the fixed charges of the Company on a basis comparable to other major railways in North America".

MR. EVANS: Yes sir.

THE CHAIRMAN: That is the extent of our commitment - "on a basis comparable to other major railways in North America".

MR. EVANS: I suppose you want from me what we believe you might be in a position to recommend under that provision of the Order-in-Council?

THE CHAIRMAN: Well, I think, in order to make a recommendation, we should have first to know something about other major railways in North America?

MR. EVANS: That is true.

THE CHAIRMAN: And then we are to report as to whether it is advisable or inadvisable to establish and maintain fixed charges of the Canadian National Railways on a comparable basis to that other Railway. I am just reading that to give you the problem as it is worded.

MR. EVANS: Yes, and we have a very concrete position on that. As Mr. Walker has said in his evidence, our position

is two fold; the first point, you, in his view, should bear in mind that the rate level is now inadequate and that you ought not to lose track of the effect of too low a rate level on the position as affecting the advisability of changes in the capital structure. And, secondly, that if a decision should be reached ^{to} reduce or revise the capital structure, some provision should accompany that for the protection of the private competitor so that the Canadian National, if it becomes the yardstick, should be permitted to earn a return on its capital which is not represented by the funded debt as revised.

THE CHAIRMAN: Well, of course, the Canadian Pacific is one of those major railways in North America whose rates we should have to consider?

MR. EVANS: Yes.

COMMISSIONER ANGUS: But isn't it really part of your argument that for rate making purposes, for yardstick purposes that fixed charges are very nearly irrelevant, that it is a question of capital investment no matter what the capitilization may be?

THE WITNESS: In the case of government railroads which cannot go bankrupt. May I add just a word? On page 55 of the Canadian National Brief, there is a table showing for the year 1947 the gross revenues in relation to fixed charges and the ratio between the two for the Pennsylvania Railroad, the New York Central, the Southern Pacific, the Santa Fe and the Union Pacific and those fixed charges and the ratio are contrasted with the Canadian National. Now, the fact is, that while the ratio given for the Pennsylvania is 7.88 which is the highest ratio of the group, the Pennsylvania Railroad, if they are going to maintain their credit and their standing as a first class railroad in the United

States, have to make a return of \$650 million on capital stock. The New York Central, which has a ratio of 5.9 has to make a return on capital stock of \$562 million. The Southern Pacific, with a ratio of 3.71, has to earn a return on \$383 million, the Santa Fe, with a ratio of 1.89, has to earn a return on \$366 million of capital stock and the Union Pacific, with a ratio of 1.92, has to earn a return on \$321 million of stock. Now, you will notice that the amount of capital stock progresses downwards in direct ratio with the reduction in ratio of fixed charges to gross revenues.

THE CHAIRMAN: The page in the Canadian National Brief does not give those figures?

A. 55?

COMMISSIONER INNIS: The common stock figures.

THE CHAIRMAN: It only gives the gross revenue, the fixed charges, and the ratio?

A. No, it does not give the capital stock; those I am supplying.

Q. Well, we will have to write them in.

A. None of those railroads could possibly maintain their credit if they did not make some return on these huge sums of capital investment over and above their fixed charges.

COMMISSIONER INNIS: You do not anticipate any dangers from rigidity depending on any sort of capital structure as a rate basis?

A. Well, the capital structure, of course sir, would be added to from time to time.

Q. Isn't there a danger of making the rate basis in relation to the capital structure a sort of rigid element?

A. I would think, sir, that the rate of reduction ought to be always in the discretion of the Board. If, as time goes on, the rate of return established by the Board enables the rialways to make too much money, that rate of return ought to come down but if they cannot survive and progress with the rate of return, it ought to go up. I would think it very unwise that the rate of return should be fixed for all time because we do not know what is going to happen in the labor market or in the market for material.

Q. Well, there would have to be some consideration of traffic which may come and so on?

MR. EVANS: I was going to suggest to you, Dr. Innis, that it would be dangerous to suppose that the rate bases would depend on the capital structure. I think that is one of the beauties of the rate basis because you can have several kinds of rate bases based on capital structure which would not be fair rate bases. You could have the case of where there was a very considerable amount of stock represented by present property value. If you measured your return by reference to the capital structure you would have merely book value.

(Page 13488 follows)

Now, the converse of that would be true, if you attempted to fix the rate base of the Canadian Pacific on the basis of this capital structure. You would give no return on its reinvested capital, or the premium on the sale of its securities. So you come down to property investment less depreciation.

There is a school of thought that depreciation should not be dictated, to all intents and purposes, by the rate base which we prove is the actual cost investment base, reduced by book depreciation, representing the original cost depreciated. You have no concern other than about capital structure. All you have concern for, if I may put it that way, is with regard to the capital structure. When you come to measure the rate of return,

there are several ways of measuring it. One is to have regard to the historical cost of the money represented in the capital structure. Another would have regard to what it would cost the company to go out and get the money that it needs. If I could clear that point up with you: Our position is not that the capital structure fixes the rate base.

COMMISSIONER INNIS: I am thinking of the tests that the Board would have to use. You suggest that the Board would fix the interest or rates to be paid, presumably. Now how would it get at this problem?

MR. EVANS: In the 20% Case we proved before the Board two methods of arriving at a fair return. One was based on a theoretical capital structure which was set up by a banker, who was an expert witness. He said that on that theoretical capital structure a return of so much would attract capital.

Then we put up Dr. Doreau, an economist, who had made a study of public utility returns in the United States to arrive at the historical cost of money as a basis for

returns, and he arrived at a different return than did the banker, who had used a theoretical capital structure. The banker was the low man by about $6\frac{1}{2}$ or $6\frac{2}{3}$ of his hypothetical structure. The economist was the high man by about 8.2 on the tests he applied. But the rate application we then made did not envisage anything up to what we said was a fair return. We used those fair return tests as a measure of the propriety of the increase which showed about 5.2%, or \$52,000,000.

COMMISSIONER INNIS: I am not sure the discussion answers my question. What would be the result of drought, let us say, in the West? Would it mean that you would have a sort of fixed change or a held-over economy?

MR. EVANS: You should return a part during the period of depression?

COMMISSIONER INNUS: Yes?

MR. EVANS: The answer must inevitably be: No. You could not put up rates in a period of depression because you would defeat your ends. You would dry up your traffic. But what you should do is to consider this application, in any period of rising costs, and even rising volume, if the fair return is fixed - and it would be perfectly certain that the return would not be fair by those standards in a period of depression. It would be impossible for a railway to justify conditions in its own interests based on the returns of depression traffic.

THE CHAIRMAN: Can you offer a way out of this perplexity? You are talking of periods of depression and periods of affluence, I suppose. Have you anything to suggest what would be a fair and reasonable treatment of the subject?

MR. EVANS: I do not think it is possible. I do not think you can say today that the Board of Transport Commissioners could - or guarantee that in a period of

depression we would be able to earn a rate of return which they say is fair and reasonable. I do not think that is possible. But I think when they are asked to increase rates, they can by that process arrive at what is a reasonable rate level by reference to a fair rate of return. That is certainly the practice in the United States.

COMMISSIONER INNIS: It is much more difficult to get rates down than it is to get rates up.

MR. EVANS: That has not proven to be so.

COMMISSIONER INNIS: I mean for the Board to interpose to get them down.

MR. EVANS: No sir. A rate increase was allowed in 1920, but in 1921, without any application by anybody, the Board embarked on an inquiry, as a result of which they made a reduction; and they did the same thing in 1922. So it does not at all follow, and there is no reason to suppose that it would follow, because the Board always says in its judgment: We remain seized of the proceedings, so that if we have not given enough, we can increase it; and if we have given too much, we can decrease it. Once they fix a formula, it is a very simple matter. Our difficulty is that we do not get the rate of increase fast enough, whereas we do get the decline much too quickly.

MR. O'DONNELL: The discussion which took place before the Board in the 20% Case will be found at page 23 of the Board's judgment on the rate of return.

CROSS-EXAMINATION BY MR. BRAZIER:

MR. BRAZIER: Q. You know that I represent the Province of British Columbia, Mr. Walker?

A. Yes.

Q. The Province of British Columbia and the Canadian Pacific have had many disputes between them in past years. We have solved most of them I think in the last few months, or the more important ones.

A. Not altogether to our satisfaction.

Q. Would you agree with me, Mr. Walker, in our saying that the operation of the Canadian Pacific Railway has benefitted British Columbia very materially over the last 60 odd years, and that at the same time the Canadian Pacific Railway has benefitted very much from its operation in British Columbia?

A. Yes, without hesitation.

Q. And that a great undertaking, which Mr. Frawley was speaking about, one of your bigger operations, is in the Province of British Columbia. I mean the Consolidated Mining and Smelting Company.

A. Yes.

THE CHAIRMAN: Mr. Brazier, we shall take a few minutes recess now.

- - - - -

(UPON RESUMING)

MR. BRAZIER: Mr. Walker, in answer to one question which my friend Mr. Shepard put to you, I think you made this statement - and you will correct me if I have not got it down quite correctly - you said: "We believe in the equality of rates throughout the country".

A. Yes.

Q. You stated that as a general principle of the Company?

A. Yes.

Q. I want to direct your attention, Mr. Walker, to the fact that at the present time both the Canadian Pacific Railway and the Canadian National Railways charge a higher basic passenger fare in parts of Alberta and in British Columbia. Is that not correct?

A. I think it is.

Q. Half a cent per mile higher in British Columbia than in the rest of Canada?

A. Yes.

MR. O'DONNELL: Because of the rarified atmosphere.

MR. BRAZIER: Q. Can I take it from your statement as to equality of rates that the Canadian Pacific Railway would be quite willing to place passenger fares in British Columbia on the same basis as the rest of Canada?

A. No, I do not think so.

Q. That is another application we will have to make to the Board?

A. Equality is not necessarily uniformity.

Q. Not in the case of passenger fares?

A. No. It depends on the cost of service and the value of service.

Q. You still adhere to the principle that if cost of service in one particular region of the railway is higher than it is elsewhere, you are justified in having rates higher in the one region than elsewhere?

A. Yes, and I find myself in distinguished company in thinking so.

Q. So I assume then that the official attitude of the Company has not changed since the Mountain Differential was removed on the freight traffic?

A. No.

Q. Now I would like to ask you a number of questions on general principles because I consider you to be one of the ablest men in Canada to answer those questions.

A. I would not say that.

Q. And if at any time you feel that the questions are beyond your knowledge, I would be pleased if you would tell me which one of the Company's witnesses the question should be directed to.

Am I correct in presuming that on your passenger traffic as a whole the company suffers very substantial loss at the present time?

A. I would not say "very substantial"; I think probably there is a loss.

Q. Does the Management of the Canadian Pacific Railway keep before it the estimated loss on rail passenger operations?

A. No, I think not.

Q. You have never considered that as a separate problem from the general level of rates in Canada?

A. Oh, we do with respect to particular train operations, where the loss is traceable and visible, where we consider a reduction of train service or an alterations of schedules - always subject to the approval of the Board of Transport Commissioners, which we seldom get, on an application to reduce any train service.

Q. I appreciate very much the fact that you are rather tied by what you can do. I just wanted to find out whether the Company had studied the problem.

A. I think I can say that it is being studied every day, not in an over-all picture, because there are train services that we recognize that we must maintain, regardless of loss.

Q. But you would not know in any one year - I mean the management of the Company would not know in any one year what its loss in the passenger service was?

A. Well, we know with reference to certain definitely allocatable maintenance, but we do not know, and there is no possible way of ascertaining every element of expense that should be charged to passenger train operations. Only within the last few weeks we have incurred losses through washouts

running into hundreds of thousands of dollars in your favourite province of British Columbia.

Now there is nobody I know of who is smart enough to tell us how much of that should be charged to passenger operation and how much to freight. The damage has to be repaired, and I certainly do not know any method except an arbitrary rule of thumb by which anybody could say how much of that added burden should be borne by passenger and how much by freight.

Incidentally, the province, I understand, has suffered almost the same amount of damage in its highways.

Q. As the railways have.

A. And the highways will be repaired and the trucks will resume business as though nothing had happened.

Q. Well, without attempting to tie your loss to so many dollars and cents, is there not some way by which management of your company could arrive at a reasonable figure as to the cost of your passenger service as against your freight service?

A. No, I do not think there is.

Q. Did you ever work out the operation ratio for freight services?

A. No, I have not.

Q. The Company has never worked one out?

A. As I say, Mr. Brazier, there are certain expenses that are constant, that are not controllable; and they do not depend either on the volume of freight or passenger traffic; and you might adopt any one of a dozen rules of thumb, but none of them would be accurate.

Q. I can appreciate that, Mr. Walker. What you are saying is that the Company has not chosen one of these rules of thumb which it feels is the best one to determine that problem.

A. No.

(Page 13498 follows)

Q. You have followed the situation in the United States so far as rail operations there are concerned?

A. Oh, to some extent.

Q. Just recently it was reported that the class 1 railroads of the United States lost \$560 million in 1948 on their passenger services. Would you quarrel with that figure?

A. I have not any knowledge of it at all.

Q. It is correct that the accounting system that the American railroads use gives them a better picture of their passenger operations than the accounting system used by the Canadian Pacific Railway; is that not correct? They break down their expenses?

A. On an arbitrary or statistical basis perhaps so, but I do not think it has any practical advantage one way or the other.

Q. What conclusion do you draw from your passenger service today as to it being profitable or not? Would you be better off without the necessity of operating your passenger service today than you are having to operate it?

A. No, I would not think we would because our passenger service has a very great influence on the patronage of our railway by freight shippers.

Q. So that --

A. A satisfied passenger is a good customer for freight as well as passengers.

Q. Presuming that was not one of the considerations and we are looking at this matter --

A. But it is one; you cannot assume it is not when it is.

Q. If all railways were in the same position, without passenger service, you would not be any worse off

on that ground, would you?

A. You mean if passenger trains were abolished on the North American continent?

Q. Yes. That factor would not influence you as against the Canadian National Railways?

A. Not if everybody discontinued the use of passenger trains, no.

Q. Taking it on a straight basis of dollars and cents, without any outside considerations, would you say you would be better off today if you did not have to operate your passenger service?

A. I don't know.

Q. The passenger operation of the railway has changed considerably over the last twenty-five or thirty years, Mr. Walker? Is that correct?

A. In what way?

Q. In the competition that you have to meet?

A. Well, I don't know that the Canadian situation-- oh, competition with other carriers?

Q. Other carriers?

A. Oh, immensely.

Q. Starting around the year 1920 you started to lose a lot of traffic to buses and private automobiles and more recently you have lost it to the aeroplane?

A. Some; I think probably the airways have created some new business too.

Q. Let me put it on this basis, Mr. Walker. Since we apparently cannot determine whether or not your passenger service is carried on at an absolute loss, if it were carried on at an absolute loss to the railway company would you say that loss should be made up by the freight shippers in Canada?

A. So long as it is compulsory for us to maintain

passenger service, yes. I am assuming that we have increased passenger fares to the point where the law of diminishing returns would apply.

Q. Now, presuming that you want to get rid of the passenger service, but you are required to continue it, and you have an absolute loss --

A. Assuming what?

Q. Assuming that you have to carry on your passenger service, you are forced to, and that you have an absolute loss which must be picked up in some other part of your service -- I think I should also say that the Province of British Columbia is just as opposed as the C.P.R. is to rail subsidies of any kind, but under the circumstances I set forth, would you think it proper for the Federal Government to subsidize rail passenger service?

A. Well, your assumption is one that you just cannot possibly make. I do not think that you can regard "absolute" as a relative term. I do not know how you are going to determine there is an absolute loss. Certainly our passenger revenues exceed all the allocable expenses for train operation. Now, right of way must be maintained, agents must be in charge, and all the overhead must exist, so that I do not know that you could ever reach the point where you said that passenger trains were an absolute loss. I doubt if American railroads could prove it either.

Q. Let us presume for the purpose of my question that the revenue from the passenger service did not cover allocable costs, the revenues were less than the directly assignable costs of the passenger service.

A. I don't know why you should assume something that is not a fact.

Q. You do not think that condition will ever arise?

A. No, I do not.

Q. And you do not think it is so at the present time?

A. No, I do not.

Q. I should like to ask you a few questions in respect to this question of "other income". I preface my remarks by this statement, that I agree with you that "other income" as such should not be taken into consideration in the fixing of rates in this country.

A. That being so, is it a proper subject of inquiry before this Commission?

Q. I think so, and I think you will see the questions arising out of that which I shall put to you. I want to qualify my own statement by saying that probably was not always the case. I quite concede that at some time in the company's history a different system should have been adopted, but we must deal with it as it is now. I wonder if you have a copy of the judgment in the 20 per cent case, Mr. Walker. I should like to refer you to page 13 of the judgment of the majority of the Board which commences with the paragraph reading:

"Counsel for British Columbia has urged that if the Board should decide that the 'Other Income' as a whole is not to be taken into account, the following income items at least should be included with Railway Income because they contend that they are directly connected with the railway services." Then follows a list of various items of "other income", including communications, C.P. Express Company, the Fredericton and Grand Lake Coal and Railway Company, the Minneapolis, St. Paul and Sault Ste. Marie Railroad

Company, the Toronto, Hamilton and Buffalo Railway Company, the Aroostock Valley Railway Company, the Northern Alberta Railway Company, and the Toronto Terminals Railway Company. The first question I wish to put to you, Mr. Walker, is this. Who decides where the particular income of the corporation shall be put?

A. I suppose in the first instance our accounting officers. If they have any doubt about it they might refer to the executive.

Q. You are familiar -- I am speaking now somewhat from memory -- with the annual reports of the Canadian Pacific Railway Company. At one time communications and C.P. Express were included in rail income, back about the years 1903 and 1905?

A. I do not recall that, if it was the fact.

Q. I am very certain that I have seen --

A. I was out in the sticks in 1903 and 1905.

Q. I am certain that I have seen a report of an annual meeting in which they had decided to put these two items into "other income" from then on.

MR. EVANS: Mr. Brazier, the fact is that today income from the express operations as such goes into the rail revenues. I think you ought to make that clear to the Commission and to the witness.

MR. BRAZIER: I am quite aware of that, and I am sure the Commission will be when I am finished.

THE CHAIRMAN: Has that always been the case?

MR. EVANS: I do not know the period around 1903. The thing that is important today is that the express earnings, after taking out merely the express company's operating expenses, all go to the railway and are taken into the rail accounts and reflected in rail revenues. There is this other question which my friend probably

has in the back of his mind, earnings of the express company from the sale of commercial paper like money orders, and so on. That is treated as "other income" of the express company and is paid out in dividends by the express company on their stock if there is any surplus.

MR. BRAZIER: Q. Am I correct in presuming that the Board of Directors of the company must take the final responsibility for the division that is made?

A. Oh, yes.

Q. You have been a member of the board for a number of years now?

A. Two, to be accurate.

Q. Has a question of this nature ever been considered by the board?

A. No.

Q. Mr. Evans has mentioned the fact that the C.P.R. express revenues from the express part of their operations are paid directly to the rail company. That is correct, Mr. Walker?

A. Yes.

Q. And the balance which is shown on page 13 of this judgment, namely, in the year 1947, dividends and financial operation, \$286,992, arises from the sale of money orders?

A. Yes, I think that is all the sale of money orders.

Q. And these money orders are sold at your express offices where they handle the express itself?

A. All over the world whether or not there is express handled there.

Q. And the other item mentioned there is dividends. If I recall correctly, most of these dividends are

dividends received from stock of the Canadian Pacific Company itself which stock is held by the Canadian Pacific Express Company?

A. I really don't know. You would have to ask our accountants just what it is made up of.

MR. EVANS: It is all on the record of the Board.

MR. BRAZIER: In the 20 per cent case.

MR. EVANS: In the 21 per cent case.

MR. CARSON: Both cases.

MR. BRAZIER: Q. Do you know the operation of the Fredericton and Grand Lake Coal and Railway Company?

A. I know where it is.

Q. It is a part of your railway system, is it not?

A. It is one of our lines.

Q. It is operated with your railway?

A. Yes.

Q. Can you give me a good reason why that should not be included in your rail operations?

MR. EVANS: Why what should not be included?

MR. BRAZIER: The amount received by way of dividends and interest from the Fredericton and Grand Lake Coal and Railway Company.

MR. CARSON: There are dividends on stock and interest on bonds.

MR. EVANS: All this is on the record of the Board, and I can tell the Commission, as my friend, Mr. Brazier, knows, that the rentals of the Fredericton and Grand Lake are paid by the company to the Fredericton and Grand Lake and the rentals are used to pay dividends on its stock and interest on its bonds.

MR BRAZIER: Dividends back to the C.P.R.

MR EVANS: And interest on its bonds. Now, it is a perfectly accidental thing whether the C.P.R. owns those securities or whether it does not. My friend has been talking about this for years; I am suggesting he is cluttering up the record, because all these facts are there, and it has all been argued many times.

MR BRAZIER: I think, Mr. Evans, if I speak for a few more years I may get somewhere; this is the first time, in the judgment I am referring to is the first time, we have got recognition of the fact---

MR EVANS: Are you asking this Commission to direct the Board as to what it should do with Other Income from the C.P.R.?

MR BRAZIER: Mr. Evans, I will make my submission to the Board in due course.

MR EVANS: Well, I think I am entitled to know what position you are taking.

THE CHAIRMAN: You are entitled to take that position if you wish to.

MR BRAZIER: I am simply taking this position, Mr. Chairman and members of the Commission, that the question of what is Other Income and what is Rail Income should^{not}/be left up to the railway itself; it should be a problem that is decided by the Board of Transport Commissioners.

MR CARSON: Would it not clear the air---

THE WITNESS: They have decided it already.

MR BRAZIER: Q. I beg your pardon?

A. They have decided it already.

Q. They have not, Mr. Walker -- I must take issue with you -- because they go on to say---

A. Perhaps not these particular items, but generally

speaking they have dealt with our Other Income.

Q. I quite agree with you, and I say I do not quarrel with Other Income strictly, but my quarrel was only with this number of items here, which to me appear to be railway items, and which are included in Other Income.

A. If you look at page 32 of our Annual Report for the year 1948 you will see that we pay rental to the Fredericton and Grand Lake Railway of \$70,664, and we get back---

Q. You charge that rent to the rail operation; is that correct?

A. Yes.

MR CARSON: I wonder if it would clear the air a little bit in this discussion if my friend would indicate -- I do not want him to develop it fully, but if he would indicate to the Commission what recommendation he is suggesting the Commission should make, because I rather think we are going into something that has been gone into so much---

THE CHAIRMAN: I think, if I follow Mr. Brazier properly, he finds fault with the decision taken as to what is railway revenue properly so-called and what is not -- that is to begin with.

MR BRAZIER: That is right.

THE CHAIRMAN: He thinks there should be some means of establishing what is railway revenue before the Board and what is not such, other than that which has been followed so far, and then in so far as certain revenues may be found not to be railway revenues strictly speaking, the second question arises, does it not, Mr. Brazier, what should be done with it?

MR BRAZIER: Yes.

THE CHAIRMAN: I think that is it.

MR BRAZIER: I think the justification for this--

THE CHAIRMAN: Now, let us take the first point first. Just tell us exactly what fault you have to find with what has been going on today.

MR BRAZIER: Simply this, that in my opinion the items that are mentioned on page 13 of the judgment are properly rail items.

THE CHAIRMAN: What does the judgment hold about them?

MR BRAZIER: That is what I was coming to. At the bottom of page 13 -- and I think this is the justification for bringing this matter up here at the present time:

"Counsel for the respondents have also maintained that if Other Income is not to be considered in fixing a level of freight rates that this Board exercise active control over the establishment of what is rail income and what is Other Income. The foregoing contention points directly to a fundamental difficulty experienced by the Board -- that the Railway Act does not, in its present form, give the Board authority to control the accounting procedure of the railways in the manner advocated by counsel."

Now, in due course we will suggest that the Railway Act should be amended to give the Board control over deciding what is rail and what is Other Income.

MR CARSON: My lord, my suggestion is that the Board clearly has that power today, and there is no difficulty in determining from the books of account what these items are. The very table that is set out on that page shows that the individual items are in the books of the company and can be readily determined.

THE CHAIRMAN: And do you say, Mr. Carson, that the Board did so in this case?

MR CARSON: In the 21% Case -- and I will come to this, if I may, in a moment -- in the 21% Case the Board reviewed this subject of Other Income, commencing at page 18 of the judgment, for several pages, and cited the precedents that have been established over the years, excluding Other Income from being taken into account in fixing freight rates. Then the matter was again raised in this present case -- that is, in the review of the 21% judgment -- and in the review, which is dealt with in the first section of the judgment, the Board will see that the Chief Commissioner, the present Chief Commissioner, revised the formula of the old Board, and made no suggestion that there should be any revision of their view of Other Income.

MR BRAZIER: That is not quite a correct statement, Mr. Carson.

MR CARSON: If you will let me finish, I am not in the habit of making incorrect statements.

When we go on further in the judgment to the section to which Mr. Brazier was referring, under the caption of "Other Income" at page 12, the contention that Mr. Brazier was then putting forward is summarized at the top of page 13:

"Counsel for British Columbia has urged that if the Board should decide that the 'Other Income' as a whole is not to be taken into account, the following income items at least should be included with Railway Income . . ."

And they are set out as Mr. Brazier has been pointing to them. So, to begin with, there is no difficulty in ascertaining what the items are; those are clearly set out in the books.

Then the judgment goes on:

"Counsel for the respondents have also maintained

that if Other Income is not to be considered in fixing a level of freight rates that this Board exercise active control over the establishment of what is rail income and what is Other Income."

Now, no one would doubt---

MR BRAZIER: Read the next sentence.

MR CARSON: I will do that, Mr. Brazier. I will do everything that you want done, if you just give me a chance.

No one would doubt that the Board has power today -- it has the available information today, and it has power today -- to say a particular item that has been treated as Other Income should be brought into rail income. That has never been a subject of controversy. The controversy we have always had is as to whether it should be brought in, but the Board has always decided against the contention so far.

Then I come to the part that Mr. Brzzier is afraid I was going to omit, and I want to read it, because I am going to make a point on it:

"The foregoing contention points directly to a fundamental difficulty experienced by the Board -- that the Railway Act does not, in its present form, give the Board authority to control the accounting procedure of the railways in the manner advocated by counsel."

Now, when one looks at the statute, there can be no doubt, in my submission, that the Board has that power.

THE CHAIRMAN: What section?

MR CARSON: And I refer the Commission to section 126, which must be read with section '33, subsection 2:

"126. The directors" --

that is, the directors of every railway company to which this Act applies, including Canadian Pacific --

-- "shall cause to be kept, and, annually, on the thirty-first day of December, to be made up and balanced, a true, exact and particular account of the moneys collected and received by the company, or by the directors or managers thereof, or otherwise for the use of the company, and of the charges and expenses attending the erecting, making, supporting, maintaining and carrying on of the undertaking, and of all other receipts and expenditures of the company or the directors."

Now, that is in the broadest possible terms the obligation of the directors in keeping account of the moneys.

Now, if the Board would be good enough to look at section 33, subsection 2, it reads:

"The Board may order and require any company or person to do forthwith, or within or at any specified time, and in any manner prescribed by the Board, so far as is not inconsistent with this Act, any act, matter or thing which such company or person is or may be required to do under this Act, or the Special Act, and may forbid . . . "

and so on.

(Page 13516 follows)

Now then, Section 126 requires the Directors to keep particular account of the monies and then to balance them up at the end of the year, which, of course, involves keeping them day by day so that one gets a balance at the end of the year and involves keeping an account, but the Section says that it is within the power of the Board to tell them the manner, to prescribe the manner in which they shall do these things because it says "in the manner prescribed by the Board" looking at 33 (2) "so far as is not inconsistent with this Act, any Act, matter or thing which such company or person is or may be required to do under this Act, or the Special Act". 126 requires us to keep the account of the monies that come in, all company monies. 33 says that the Board may prescribe the manner in which we are to do that very thing. Now then, it is perfectly idle, in my submission, for any suggestion to be made that the Board has not got that power today. The grievance that my friend has -

MR. BRAZIER: It is not a grievance.

MR. CARSON: The complaint that my friend has - he has now withdrawn the word "grievance" (I thought it had the tone of grievance) but the complaint he had is that they put forward the contention for almost forty of fifty years that has been rejected. Now, there is no difficulty under the statute and there is no difficulty as far as the two railways are concerned in having this matter determined if in principle the Board should give effect to his contention.

THE CHAIRMAN: Now Mr. Brazier, if you think that the section we have heard read, or any other section which may bear on this question, ought to be amended, I would suggest to you, as I have to other counsel, that you draft your amendment

and let everybody concerned have a copy and then, when the proper time comes, the merits of it can be argued.

MR. BRAZIER: I will attempt to the best of my ability to do that, my lord. With due deference I would suggest the interpretation Mr. Carson is putting on those two sections, is straining the sections very much.

THE CHAIRMAN: You see, since you are to submit your own amendments, we are anticipating an argument that will have to go on later on.

MR. BRAZIER: I would point out that apparently the Board saw the same difficulty as I see in it.

MR. CARSON: This point was never argued before the Board.

MR. BRAZIER: And so I would refer to the Order-in-Council appointing this Commission P.C. 6033, and you will notice that in Section 2 (d) that a part of the reference to you is the segregation of assets, revenue, and Other Income etc. as between railway and non-railway items.

THE CHAIRMAN: I know it is one of the enumerations we are to deal with, and if you have got any amendments in any way bearing on that point, let us have them.

MR. BRAZIER: I will do so to the best of my power. Now then, of the list on that page, 13 (I do not intend to go over them all, Mr. Walker) but I just turn now to the last one, the Toronto Terminals Railway Company from which you received interest of \$646,500 in the year 1947.

THE CHAIRMAN: Are you reading from the Judgment?

MR. BRAZIER: I am reading the figure from the Judgment.

MR. O'DONNELL: It is the 8 Percent Case.

MR. BRAZIER: You see that last item?

A. Yes, I see it.

Q. Now the Toronto Terminals Railway Company is jointly owned by the Canadian Pacific Railway and the Canadian National Railways. Am I correct?

A. I think so.

Q. And it operates your passenger terminal in the City of Toronto? Is that correct?

A. Yes.

Q. And the Company pays rent for the use of the facilities of the Company? The Canadian Pacific and the Canadian National both pay rent to the Terminals Company for the use of those facilities?

A. Well, really I do not know all the details. Our accounting officers would tell you.

Q. I do not want to get into any figures but the principle.

MR. CARSON: I think that is generally correct, what you say.

MR. BRASIER: And after deducting the operating expenses of the Toronto Terminals Railway Company in that year they paid you back -

MR. CARSON: No, this is interest on the bonds.

MR. BRAZIER: And I think interest entirely on bonds?

A. Well, as far as I know, Mr. Brazier, I think I am quite correct in saying it is in exactly the same position as the Northern Alberta Railway Company which pays us interest nominally on the bonds of \$124,000 per annum and the two Railway Companies bear the operating losses of the Northern Alberta Railways which make that item look quite insignificant.

Q. With respect, Mr. Walker, I think if you will

check you will find that the Northern Alberta Railway is handled a little differently than the Toronto Terminals in that the rent that you pay -

A. That is why I suggest you ask our accounting officers about it, because I cannot know.

Q. The rent you pay is deducted from the interest you receive from your bonds and the difference is carried into Other Income?

A. But the operating loss, if there is one, must be borne by the two parent companies.

Q. Now wouldn't you agree with me that your interest in the Toronto Terminals Railway Company is as an integral part of your rail operations?

MR. CARSON: You mean the question of the bonds?

MR. BRAZIER: Mr. Walker will answer.

A. I do not know that I can answer that question. You say an integral part of our railway. It belongs to a separate company. We have the use of the facilities jointly with the Canadian National just as we have the use of the Canadian National facilities sometimes under arrangements with them.

Q. What would be the situation if the Toronto Terminals Railway Company did not have the station there? you would have to build your own terminal, wouldn't you?

A. Yes, at one time, we had.

Q. It would mean an investment by the Company in strictly a rail operation?

A. Yes.

Q. You would not consider your terminal in the City of Vancouver, the operation of that, as part of your Other Income account?

A. No, but do not assume, Mr. Brazier, that these

these items or any of them represent net profit to the Canadian Pacific because they do not necessarily do so at all.

Q. I am not assuming that at all, Mr. Walker.

A. And just speaking in a general way, I assume you would concede that if these represent profits and should be taken into account, then in years when there are losses they also should be taken into account?

Q. Quite. Absolutely.

A. If you make any such admission, then the amounts we have lost in the Minneapolis-St. Paul & Sault. Ste. Marie Railway so far outweighs the total of these many elements.

Q. And those losses have been charged to your rail account, haven't they?

A. No, they have not. To the Canadian Pacific account? Indeed they have not. Not one dollar of them; the shareholders paid those losses.

THE CHAIRMAN: We will adjourn now until tomorrow.

---At 4.45 p.m. the Commission adjourned until
Tuesday, December 13, 1949, at 10.30 a.m.

- - - - -

A.R.

Canada

ROYAL COMMISSION
ON
TRANSPORTATION

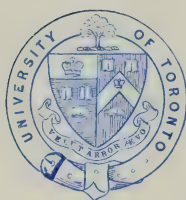
EVIDENCE HEARD ON

 DEC 13 1949

VOLUME

65

521205
23. 4. 51



Presented to
The Library
of the
University of Toronto
by
Professor H.A. Innis

<u>GEORGE A. WALKER, K.C.</u> - Recalled. Cross-examination by Mr. Brazier resumed - - -	13521
Cross examination by Mr. Campbell - -	13567
Cross examination by Mr. Hume - - -	13600
Noon adjournment - - - - -	13611
<u>GEORGE A. WALKER, K.C.</u> - Recalled.	
Cross examination by Mr. Hume resumed	13612
Examination by Mr. Covert - - - - -	13616
Statement by Mr. O'Donnell - - - - -	13663
Re-Examination by Mr. Carson - - - - -	13663
Adjournment - - - - -	13671

- - - - -

ROYAL COMMISSION ON TRANSPORTATION

OTTAWA, ONTARIO,
TUESDAY,
DECEMBER 13, 1949.

THE HONOURABLE W.F.A. TURGEON, K.C., LL.D. - CHAIRMAN

HAROLD ADAMS INNIS - - - COMMISSIONER

HENRY FORBES ANGUS - - - COMMISSIONER

G. R. Hunter,
Secretary.

P.L. Belcourt,
Asst. Secretary.

COUNSEL APPEARING:

F.M. Covert, K.C.	}	Royal Commission on Transportation
G.C. Desmarais, K.C.		
Hugh E. O'Donnell, K.C.	}	Canadian National Railways
H.C. Friel, K.C.		
C.F.H. Carson, K.C.	}	Canadian Pacific Railway
F.C.S. Evans, K.C.		
I.D. Sinclair		
K.D.M. Spence, K.C.		
Wilson E. McLean, K.C.	}	Province of Manitoba
C.D. Shepard		
M.A. MacPherson, K.C.	}	Province of Saskatchewan
J.J. Frawley, K.C.		
H.G. Nolan, K.C.	}	Province of Alberta
C.W. Brazier		
F.D. Smith, K.C.	}	Province of British Columbia
J. Paul Barry		
F.R. Hume	}	Province of Nova Scotia; Transportation Commission of the Maritime Board of Trade
M.L. Rapoport		
R. Kerr	}	Province of New Brunswick
J.O.C. Campbell, K.C.		
	}	Canadian Automotive Trans- portation Association
	}	Board of Transport Commissioners
	}	Province of Prince Edward Island

OTTAWA, ONTARIO,
TUESDAY, DECEMBER 13th, 1949.

M O R N I N G S E S S I O N

GEORGE A. WALKER, K.C., Recalled.

CROSS-EXAMINATION BY MR BRAZIER (Cont'd.)

Q. Mr. Walker, before proceeding today I would like you to look at page 13494 of the transcript of yesterday. I put a question to you which I do not think was answered, about two thirds of the way down the page:

"Q. Did you ever work out the operation" ---
I think that word should be "operating" --

"ratio for freight services?

A. No, I have not.

Q. The company has never worked one out?"
Now, it may be that that is not a fair question to put to you, Mr. Walker, but can I put it to you this way:
To your knowledge has the Company ever worked one out?

A. No, I have no knowledge of it. Mr. Liddy, who will be called, will give you a complete answer, Mr. Brazier.

Q. Thank you. Now then, at the adjournment yesterday, Mr. Walker, we had been discussing the question of Other Income and the reference to it in the Judgment in the 8% Case.

MR EVANS: What case was that, Mr. Brazier?

MR BRAZIER: The judgment of September 20, 1949.

MR EVANS: The interim 8% judgment?

MR BRAZIER: That is right. We had just come to the last item there, the Toronto Terminals Railway Company?

A. Yes.

Q. Showing interest rates from that company, interest on bonds, of \$646,500 in the year 1947?

A. Yes.

Q. Which means in the accounts of the Company it was put in Other Income?

A. Yes.

Q. I would like to put this question to you, Mr. Walker. If the Toronto Terminals Railway Company was a wholly-owned subsidiary of the Canadian Pacific Railway Company and the question came before you as a director of the company as to which account that interest should be credited to, what would your opinion be?

A. Well, if it was a wholly-owned subsidiary it would not appear at all.

Q. Are you quite sure of that, Mr. Walker?

A. I am reasonably sure, but these things are matters of accounting, Mr. Brazier, and I am not an accountant. There is a perfectly logical explanation with regard to every one of these items on page 13 of the Judgment, and what we think is a perfectly satisfactory and intelligible explanation, but the only one who can put it properly is an accountant, and Mr. Liddy not only has already given an explanation of these items in the proceedings before the Board, but he is here prepared to do so again, if necessary.

Q. Am I to presume, then, Mr. Walker, that the Board of Directors does not interfere in the Accounting Department in regard to these matters?

A. No, generally speaking, we do not.

Q. And to your knowledge from the time that you served on the Board of Directors, there has never been any problem of questioning what the Accounting Department has done.

A. Oh frequently, the Accounting Department refer to us about matters that arise in their Department. But as to the account in which a particular item goes, we naturally rely on accountants.

MR. EVANS: I do not think this should be left without a reference to what the evidence was. You see, the evidence was that the investment in the Toronto Terminals is not included in railway account. If you are going to have this interest fund you would have to allow a return on the investment of the Toronto Terminals. It is as simple as that, my friend ought to know about that.

THE CHAIRMAN: Mr. Brazier, we are told now that Mr. Liddy is the one to deal with that.

MR. BRAZIER: I was trying to explore, my lord, the control that the Board of directors exercised of this particular matter. Now, Mr. Walker, if it should be decided contrary to the opinion expressed by Mr. Carson yesterday, that the Board does not possess the power to supervise what is to be included in the rail account and what is to be included in the Other Income, do you see any reason why such a power should not be given to the Board of Transport Commissioners?

A. No.

Q. Mr. Walker, I do not want to go over again our discussion of yesterday about passenger services of the Canadian Pacific Railway; but I have been wondering, since looking at the transcript last night, whether you were familiar with the statement on page 185 of the Canadian Pacific brief?

THE CHAIRMAN: Of volume 1?

MR. BRAZIER: Q. Volume 1 of the brief, and the table to which it refers, which is to be found at page 116 of the Appendix to Part 1.

A. No, I was not, Mr. Brazier; and my attention was called last night to the fact that a special study of some kind had been made in which there was some arbitrary allotment of what we call non-allocable expenses. From what I have seen of it I would not think that, for purposes of practical administration, it was worth anything.

Q. So this is part of the brief we can just put our pencils through?

A. I beg your pardon?

MR. CARSON: He did not say so.

THE WITNESS: Are you referring to the Crows Nest study? I was referring to some study which had been prepared at the request of council for the Freight Rates Investigation with regard to the expenses of passenger train operation. Is that what you are referring to?

MR. BRAZIER: Q. Starting with the second sentence of the second paragraph on page 185, Mr. Walker, this study refers only to passenger service in the Prairies and Pacific regions. It says:

"The apportionment of the expenses to passenger train service in Western Canada during 1948 has shown a deficiency of revenues under expenses for this service of \$18,555,654. Details of results of the apportionment may be found in the Table at page 116

...the ...
...the ...
...the ...
...the ...
...the ...
...the ...

...the ...
...the ...
...the ...
...the ...
...the ...
...the ...

...the ...
...the ...
...the ...
...the ...
...the ...
...the ...

...the ...
...the ...
...the ...
...the ...
...the ...
...the ...

...the ...
...the ...
...the ...
...the ...
...the ...
...the ...

of the Appendix, from which it appears that passenger train revenues nearly cover transportation costs and maintenance of equipment expenses assignable to passenger train services, but they make no contribution toward maintenance of way and structures or to general overhead. It is recognized that this condition is not unusual among railroads on this continent and that this deficiency in the contribution of passenger train revenues must be made up from freight revenue."

A. Yes.

Q. And if you will look at the Table itself, Mr. Walker, it shows a total revenue for passenger service of \$27,487,601.

MR. EVANS: For the Prairie and Pacific regions.

MR. BRAZIER: Q. That is right; and the total operating expenses are shown as \$45,350,549. I would ask you to direct your attention to the two items: Maintenance of Equipment and Transportation, the total of which is \$29,800,000 approximately.

A. Yes.

Q. Showing some \$2,000,000 below revenue?

A. Yes.

Q. Is it correct to say that it is reasonably possible to assign to a particular service the items covered by those two headings: Maintenance of Equipment and Transportation Revenue?

A. What do you mean by "Assign them to a particular service"? Do you mean to a particular train or branch line?

Q. No, no, to the service as a whole. There is no difficulty in the books of the Company as to segregating repairs to passenger train equipment as against

freight equipment?

A. Oh no, I would assume not.

Q. And similarly with transportation, its costs for fuel, oil, and operation?

A. Yes.

Q. Those two items can be fairly directly assigned to the service which uses them?

A. I would think so, but Mr. Liddy can give you a positive answer.

Q. Now that statement does indicate that in considering those two items which are directly assignable, your passenger service was carried on at a loss of over \$2,000,000 ?

MR. EVANS: The answer was not that they were assignable.

MR. BRAZIER: As far as those items are concerned, I think Mr. Walker would agree with me that they can be made assignable directly.

MR. EVANS: But you put words into his mouth that they are directly assignable. And if you want me to tell you what the evidence will be, I will tell you that they are not directly assignable.

MR. BRAZIER: Let us assume that the main part of these two items is directly assignable.

MR. CARSON: Why assume something you have been told is a fact.

MR. BRAZIER: Q. It would show directly a loss of something over \$2,000,000.

A. In that particular territory.

Q. Yes.

A. We know perfectly well there are many passenger trains in Western Canada which are run at a loss. In many instances we have tried to remove them but on each occasion we have failed in our application for

authority to remove them; and that not only costs a lot of money but it creates bad public relations; and public relations are very essential to a railway company.

Q. I think I prefaced all my remarks yesterday in this regard by saying that I appreciated the difficulty you were in. Now, that statement shows on its face a loss of \$18,000,000.

A. In that particular region, Mr. Brazier.

Q. I am referring to that particular statement.

A. I was talking yesterday about passenger transportation as a system matter.

Q. Now this statement does not appear to make any allowance for return of capital or fixed charges.

A. I do not know. You would have to ask Mr. Liddy that.

Q. Don't you think it is a fair assumption to make there from that statement, that the passenger service of the Canadian Pacific Railway is carried on at a substantial loss to the Company?

A. I think it is entirely ^{a matter} for argument after all the evidence has been heard.

Q. You have no personal opinion on it at all?

A. I am not prepared to make any assumptions,

Q. I would like to discuss with you for a few minutes the general picture of railways in the field of transportation today. You would agree, would you not, that for many years, railways had a virtual monopoly of land transportation on the North American Continent?

A. Yes.

Q. And during that early period you only had two competitive factors to deal with, one being water transportation, and the other being "other carriers".

(Page 13533 follows)

THE CHAIRMAN: You mean other railways?

MR. BRAZIER: Other railways.

THE WITNESS: Yes, other railways.

MR. BRAZIER: Q. That was the extent to which you met competition in the field of transportation. Would you agree with me that this position of virtual monopoly permitted the railways to fix their rates on a basis of what the traffic will bear, or I think you now prefer to call it value of service?

A. It depends on what period you are speaking of. If you are speaking of the period before railway rate regulation, yes.

Q. Yes. That same principle continued with modification after railway rate regulation came in?

A. Very substantial modification.

THE CHAIRMAN: When did this regulation come in?

MR. BRAZIER: 1903 would be the date.

THE WITNESS: In Canada; there was some regulation before under the Railway Committee of the Privy Council, but it is not what we regard today as railway rate regulation.

MR. BRAZIER: During the early period of the C.P.R. you were exempt entirely from any control of your rates?

THE CHAIRMAN: Until a certain position was reached.

MR. BRAZIER: Q. Until 1897; that would be the date?

A. I do not remember really. There was a restriction on the Government's power to interfere with our rates in our original charter until we paid 10 per cent.

Q. Over 10 per cent in dividends?

A. Yes.

MR. EVANS: Other railways were given a greater privilege than that; you knew that.

THE CHAIRMAN: What do you say?

MR. EVANS: Other railways were given greater leeway than that under the Railway Act.

MR. BRAZIER: I am not complaining of the privileges that were given.

THE CHAIRMAN: I think it was 15 per cent generally.

MR. EVANS: Yes, sir.

MR. BRAZIER: Q. Would you say it is correct that the present freight rate structure of Canada was to a great extent built up during that period to which we have been referring?

A. Yes, but it was built up not with reference to what you have in mind; it was built up with reference to the rate structure that prevailed in the western United States which were all already under regulation.

Q. I suggest to you that commencing about the year 1920 your position underwent a substantial change, and that from that date you had to consider a new form of competition in trucks and buses?

MR. CARSON: What date?

MR. BRAZIER: Q. About 1920, just after the first world war.

A. Mr. Evans could answer your question better. I do not remember just when truck competition became effective. It started in a very small way in local districts. I could not assign a date.

Q. I am taking it from my own general impression

of the history of that time. It was after the first world war that mass production of automobiles really started?

A. You are probably right.

Q. I am not trying to pin you down to a year or anything, but in that period a new factor entered the field of land transportation?

A. Yes.

Q. That change is continuing today?

A. Yes.

Q. Yesterday you mentioned the fact that a trans-Canada highway was to be built, and that theoretically at least trucks would be able to use it from coast to coast?

A. Yes. I did not express myself very happily about the trans-Canada highway yesterday, Mr. Chairman. I had no idea of criticizing the expenditure of \$300 million on a trans-Canada highway because that is inevitable in a country like Canada, but what I suggested was that it was unsound to provide such a highway for the operation of transcontinental trucking, which will follow unless there is some restriction on the use of the highway, without providing in some measure for the payment by trucking companies of some proportion of the interest on the capital investment. Otherwise you have no basis for fair competition between trucks and railways which must continue to pay interest on the investment in their railway rights of way.

Q. Is it fair to say that truck competition is becoming more active each year?

A. Pardon?

Q. Is it fair to say that truck competition is becoming more active each year?

A. I think it is fair to say so, certainly in the United States.

Q. I wanted to refer to the picture in the United States. As I understand it, trucking is making very serious inroads into the freight traffic of the United States railroads?

A. Yes.

Q. And with the development of roads in various parts of Canada you would expect that trend to develop in Canada?

A. Yes.

Q. It is something that the railways must look at for the future?

A. Unquestionably you can raise railway rates to the point where the law of diminishing returns will apply, but we are a long way short of that point in Canada.

Q. Do you think there are indications that that point has been reached in the United States today?

A. With reference to certain localities and certain commodities, yes.

Q. What type of traffic in the main are you losing to trucks?

A. Well, in the first instance it was largely less than carload traffic. Now it has extended into carload traffic for limited distances. I do not know that I could tell you exactly what the commodities are, but Mr. Jefferson will give you the fullest possible information about that.

Q. Would it be correct to say that generally speaking it is your high rated traffic that you are losing?

A. Very largely.

Q. That is traffic which is charged more on a value of service basis than on a cost^{of}/service basis; is that correct?

A. Yes, I think so.

Q. It is the traffic that per hundred pounds makes the largest contribution to your revenues?

A. Well, I could not undertake to say that. Mr. Jefferson can answer the question for you.

Q. I put it on a per hundred pounds basis; I am not suggesting the total traffic.

A. I know, but there again Mr. Jefferson would have to answer your questions.

Q. I suggest to you that if you increase your rates still further there is a good possibility that you will lose even a greater part of your traffic to truck competition?

A. That is a function of management, Mr. Brazier. We will know when we reach the danger line.

Q. You do not think you have reached it now?

A. I am very sure we have not.

Q. Have you made any estimate at what point in the increase in rates you arrive at that danger point?

A. No, we have not, but we do know that costs of trucking companies have gone up, perhaps not in direct ratio with ours, but very materially.

Q. If that tendency to lose your high rated traffic were continued long enough the railways would be left with only the low rated bulk long distance hauling; is that correct?

A. Well, that may follow logically. I do not know that practically that result will ever be reached. I mean, that is a pure matter of speculation and argument, Mr. Brazier.

Q. Isn't there a great deal of thinking along those lines in the United States at the present time?

A. Oh, I would not say that. The fundamental difficulty, Mr. Brazier, is that the trucking companies are under no obligation as common carriers. There may be provisions in the provincial statutes, but they are not enforced, whereas the railway companies are under a statutory obligation to maintain suitable and sufficient facilities for the handling of all traffic that is offered on the railway, and we have to maintain those facilities and keep them staffed, whether people choose to patronize us or whether they don't; and the trucker, on the other hand, can pick and choose his traffic, and if he does not like a particular route he can fold up his tent and fly to some other new pasture, while the railways must continue to operate and must continue to maintain the facilities that are suitable and sufficient for the traffic on the railway, though they may be only called on in periods when the roads are blocked or highways are washed out and the trucks cannot operate.

Q. Would you say, Mr. Walker, that the criticism which you have just given of the lack of regulation of truck competition applies in British Columbia?

A. I am not sufficiently familiar with the situation in British Columbia to say.

Q. Now, under the circumstances which we have been discussing of the increasing competition which is taking from the railways a great deal of its high rated traffic, do you not think it would be advisable for the railways to change their method of pricing transportation for the future?

A. No; I think the remedy lies in taking off some of the wraps under which we operate and giving us a free hand to compete with the trucks.

Q. What wraps are you referring to?

A. The rigid control of rates, the rigidity of them, the fact that a truck operator may alter his rates and may change or alter his transportation methods to suit the traffic that is offering, while we on the other hand are bound to ask authority to alter our methods of operation, to---

Q. You have a pretty free hand today in meeting competitive rates, Mr. Walker, have you not?

A. Yes, we have.

Q. That includes truck competitive rates?

A. Beg pardon?

Q. That includes truck competitive rates?

A. Yes, but we are now met with the contention that every time we reduce a competitive rate in a competitive area we must reduce rates in non-competitive areas too.

Q. I have been faced with the same problem for my friend Mr. Frawley.

MR FRAWLEY: That really is not Alberta's contention; it may as well be on the record now.

THE CHAIRMAN: I understand it is not British Columbia's contention either; is that right?

MR BRAZIER: Yes, sir.

Q. Are you suggesting, Mr. Walker, that if the wraps,

as you put it, were taken off the railways, you would be able to solve your problem of obtaining sufficient revenue to operate efficiently?

A. Oh, I could not say that. I am not a traffic man. I think it would go a long way toward solving it.

Q. Would you say that if you were granted higher rates than are now in effect, and you undertook the economies which you are able to do, such economies as you are able to do, that would solve the difficulty that faces the railways?

A. Would you mind repeating that? I did not quite get it.

Q. I say if you were permitted to charge higher freight rates than at the present time, and you put into effect such economies as you were able to do in the transportation of goods, the difficulty of the railways would be solved by those two factors?

A. It would be immeasurably improved; I do not know -- it depends on what kind of increased freight rate you are talking about.

Q. Well, the railways, I think, have suggested two increases of 30% and 20%; if you had been given both those two increases?

A. If we had?

Q. Yes; do you think your problem would have been solved?

A. Not wholly, because those increases, as developments have progressed, have been demonstrated to be inadequate.

Q. Those two increases would not even have met your needs?

A. No.

Q. I want to go to another matter for a moment, Mr.

Walker, just for a matter of information. Under section 345 of the Railway Act you are permitted to give free carriage to your employees and their families?

A. Yes.

Q. And dependents. How many employees has the Canadian Pacific Railway, approximately?

A. Somewhere in the neighbourhood of 81,000. Those of course are in all capacities. I could not say how many are actually employees of the railway -- the bulk of them.

Q. 81,000 employees, when you included their families and dependents, I presume a conservative figure would be about 200,000 entitled to---

A. Your guess is as good as mine.

Q. That is allowing three to a family.

A. Well, I think that is rather large. Mine only consists of one.

Q. Yourself?

A. No.

Q. That is only allowing for the employee's wife and one child; that would not be high, would it?

A. Oh, you put it three to a family?

Q. Yes; that would not be high at all, would it?

A. No.

Q. 200,000. Now, would you tell me what the rules of your company are with regard to granting free transportation?

A. Oh, I could not say offhand. They are all in printed form. We will put them in if it would suit you, Mr. Brazier.

MR EVANS: I have the General Order of the Board No. 656, which prescribes the conditions under which free transportation will be issued; if my friend Mr. Brazier would like that on the file, I have no objection

to obtaining an extra copy for that purpose.

THE CHAIRMAN: Mr. Brazier, do you intend to argue that this free transportation to employees should be rescinded?

MR BRAZIER: No. Probably my next question, my lord, will indicate my purpose here.

Q. I was just simply going to put this to you, Mr. Walker: Do you think that a considerable saving could be made by the railways if these privileges were restricted more than they are at the present time? Now, it may be that you do not think there would be any saving, but---

A. Well, we would take more money into the till, of course, but whether we would be better off in the long run I could not say.

Q. You would not know that?

A. Certainly the Canadian Pacific could not do it individually.

Q. Oh, no, I am not suggesting that.

A. If that principle is abolished on the North American Continent, no doubt there would be more money in the till as a result of passenger travel, but I think that privilege has a very great influence on the morale of our employees. If you were a farmer and you were going to town with your horse and buggy, and you refused to give your hired man a lift, he would not think much of you, would he?

THE CHAIRMAN: Q. Does this privilege exist in the United States?

A. Oh, yes, practically since the railways began to operate, Mr. Chairman.

MR. BRAZIER: I was just attempting to find out whether or not it was a matter that cost the railways a considerable amount of money each year through the granting of this privilege?

A. Looked at as a matter of dollars and cents, no doubt.

Q. Mr. Walker, the Canadian Pacific Railway is advocating the abolition of appeals to the Privy Council from the Board of Transport Commissioners?

A. Yes.

Q. I think you as a lawyer would agree with me -

A. We have made a submission to that effect.

Q. I think as a lawyer you would agree with me that the normal practice in British Courts and Tribunals is to provide for somebody to appeal to from questions of fact?

A. In the courts?

Q. Yes.

A. Oh yes, but not from administrative tribunals.

Q. You do not think that that principle should be carried to administrative tribunals?

A. I do not.

Q. And from that body you would suggest that the only appeal should be on a question of law?

A. I do. That system prevails in the United States.

THE CHAIRMAN: What system?

A. The system of providing only an appeal on a question of law.

MR. BRAZIER: Isn't it a fact, Mr. Walker, that the I.C.C. have what are called examiners who examine into cases before they actually go on?

A. Yes, that is the universal practice.

Q. We have not that in our system?

A. No.

Q. Do you think that that would be advisable?

A. I think it would probably expedite the work of the Board very greatly.

THE CHAIRMAN: Pardon me, what do the examiners do?

A. The examiners, Mr. Chairman, are assigned by the Commission to take the evidence in connection with all kinds of applications made to the Interstate Commerce Commission and they travel about from place to place in the United States. They have a very large number of them. They hold hearings in St. Louis, Chicago, Los Angeles - wherever the nature of the case seems to point to the minimum of inconvenience to all parties. The examiner builds up a record; he takes the evidence and he hears to such extent as he thinks necessary argument after evidence has been taken and he submits to the Commission a report or recommendation as to the disposition that ought to be made of the complaint. In very important cases like finance cases, corresponding to our application for an increase in freight rates, for example, sometimes one, two or three members of the Commission itself act as an examiner and holds sittings either at one place or at several places throughout the United States and they in turn make a report or recommendation to the whole Commission.

Now, after the examiner's report is made, the parties are given a fixed period of time in which to submit Briefs and those go in cases of what you might call minor importance, to a division of the Interstate Commerce Commission consisting of two or three members and the division may adopt or reject or modify or vary the report of the examiner and in turn make the order that they think appropriate.

Now, in some cases there is an opportunity to have that reviewed by the full Commission, but that is not usually done, except in important cases. There is no hearing on the application. The parties are at liberty after the matter has been disposed of by a division of the Commission, to apply in writing for a hearing before the full Board, but that is entirely in the discretion of the Board. They may allow or reject it in their own discretion.

MR. BRAZIER: Then, Mr. Walker, does not the I.C.C. in its setup in effect provide a Court of Appeal from the trial court, the trial court being the examiner?

A. No, it is the same court. They simply divide up the work because in such a vast country as the United States so densely populated and with such a vast network of rail-ways, they could not get through the work unless they had some system of rotary, so to speak, to take care of it.

Q. In a particular case it would simply be one examiner who travels around and obtains the evidence from place to place and makes his report?

A. Well, generally speaking, the examiner if he goes out sits only in one place, a place which he regards as best suited to the convenience of the parties involved.

Q. I have seen a number of reports where they have sat at different points.

A. I suppose that may happen.

Q. And when he makes his report does the party have an opportunity of presenting a Brief somewhat like we are presenting Briefs, I presume, at the present time?

A. Well, they do not run to three volumes.

Q. In which they may criticize the findings of the examiner or question his methods of arriving at his finding?

A. Yes, it is an argument in writing; that is all.

Q. When that comes on again, does it come just before that examiner again?

A. Oh no.

Q. It goes before different people?

A. It goes to a division of the Supreme Court and there are a limited number of cases, minor cases, that might be disposed of by a single Commissioner. I have forgotten - they have some technical title for those, but I have forgotten it.

Q. Would it be your opinion that that would be a more efficient method of handling these matters particularly applications for general increases than the system we use in Canada?

A. Well, frankly I do not know that there is enough work or sufficient call for the adoption of what is quite an expensive method of procedure in Canada, but certainly anything that would speed up the disposition of applications such as those we have had to make recently, would be decidedly in the public interest.

Q. And you would approve of them yourself?

A. If it would speed it up.

MR. EVANS: I might assist the Commission by referring to the fact that in the General Freight Rates Investigation which took place between 1925 and 1927 there was a separate group of orders relating to subsidiary questions which are in essence the reports of the Board's Traffic Officer, and have been adopted by the Board as the decision of the Board and those will be found in Volume 17 of the Judgments, Orders, Regulations and Rules of the Board beginning at page 303 and there are a large number of them. As a matter of fact the Commission may recall the Town of Simcoe Case which was

brought up in the course of Mr. Frawley's presentation. It happens to be one of those cases which were in fact decided by this examiner procedure through the Board's Traffic Officer. That has been done in a great many cases where the Board's Traffic Officer has written the judgment and the Board has adopted that.

THE WITNESS: And the statute, moreover, provides that even one Commissioner may be nominated by the Board of Transport Commissioners to go out and make a record as we might say, take the evidence, and that the Board may deliver judgment on his recommendations and findings.

MR. O'DONNELL: Merely a matter of procedure for handling the work more expeditiously.

COMMISSIONER INNIS: Does this meet the problem Mr. Evans was discussing yesterday as to the flexibility of the rates or the possibility of the Board ensuring flexibility of rates either upwards or downwards?

MR. EVANS: I remember the point but I am not quite sure that I see the purport of your question.

COMMISSIONER INNIS: I think you said at the end of your remarks something about the question of upward revision and downward revision or that it was more difficult to get upward revision?

MR. EVANS: Yes.

COMMISSIONER INNIS: What sort of changes should be made in the Board in which there should be a rather consistent following upwards or downwards without doing damage to the relations in such a large scale?

MR. EVANS: Well, there are a number of ways that could be done. One suggestion which we make specifically in our Brief is to remove the so-called political appeal provided by Sub-section (1) of Section 52. One way might be to do what has been done - and I suppose this has become necessary -

in the United States because of similar difficulties. They have a proviso in, I think, Section 15 of the Interstate Commerce Act which provides that the Commission give precedence to any changes in rates. I would be glad to look that up for you.

COMMISSIONER INNIS: I was more worried about individual cases than the general level of the rates. You see, if business goes upwards or goes into a depression what is the machinery by which you could get a consistent adjustment?

MR. EVANS: My own view, and I think the Company's view, would be that if you took away the invitation to bring political pressure on the Board through this appeal to the Governor-in-Council, that you would find a change in the attitude of the Board and I should think a great deal less delay in dealing with our cases. There is another thing too, I want to add, and that is this examiner procedure probably would never be applied by the Interstate Commerce Commission to general increase cases. I do not know of any case where that has been done. I think a division of the Commission largely sits in that case.

COMMISSIONER INNIS: But the difficulty is that most of these political disturbances relate to these large scale increases. Now, I am just wondering how far the one follows from the other or one tends to influence the other?

MR. EVANS: Well, our view is that as long as you have what I might call for want of better language, a gilt edged invitation to groups to present to the political mind the objections they have in these cases and their grievances, you will tend to have pressure groups very vocal, not necessarily really numerous in terms of total interested people, coming to the government with pressure, suggesting to the government

that the government should do something either on an appeal or by putting pressure on the Board to do something and we think that that would be the greatest move that could be made to speed up the hearing of these cases.

COMMISSIONER INNIS: I would turn it around and say that so long as you have large scale increases you will have this political pressure. My point is whether you can reduce the extent of the large scale increases or make them in some way more gradual or in some way in which this political pressure cannot boil up?

MR. EVANS: I venture to suggest that the example of the United States rather refutes that suggestion sir.

(Page 13555 follows)

COMMISSIONER INNIS: But the United States has 48 States, while Canada has 10 provinces, if you like.

MR. EVANS: That is true. But nevertheless you have the same forces acting in the United States, and the history of these rate cases is full of them; and you will find in the judgments of the Interstate Commerce Commission a good deal of pressure for changes in the level of rates.

THE CHAIRMAN: But there is no appeal.

MR. EVANS: There is no appeal.

THE CHAIRMAN: But political pressure is just the same apparently.

MR. EVANS: There is the invitation to come to the tribunal and tell their grievance to that tribunal, and just as people may have a grievance and go to a court, once they have had a judicial hearing, that grievance tends to die out. But so long as you have another tribunal to which you can present your grievance, that tends to make endless delay and difficulty, and it gets into the press.

THE WITNESS: In Section 52 Subsection 5, dealing with appeal to the Supreme Court from an order of the Board on a question of law, there is a direction that the appeal should be heard by such court as speedily as possible. The Supreme Court treat that as they should, with very great respect, and do hear appeals as speedily as possible.

THE CHAIRMAN: In many cases those appeals are only appeals on questions of law, and there must necessarily be jurisdiction of that sort.

THE WITNESS: But in point of fact one would not expect that an administrative tribunal needed any such direction. But when, in point of fact, the railways are confronted with a situation in which enormous increases of wages are

made retroactive, and it takes eighteen months to complete a hearing on their application for some relief, there is obviously a vast amount of money lost before they can get any money at all, even if the remedy, when it is granted, is adequate for future needs.

THE CHAIRMAN: Q. Are you not speaking now of the delay entailed in this application to the Board itself between the moment of making that application and the disposal of it by the Board, apart from any appeal?

A. Quite.

Q. Have you any suggestions to make which would expedite these hearings and the disposal of these cases by the Board? Perhaps your brief does?

MR. EVANS: My lord, I have that section; this is at the end of Subsection 7 of Section 15 of the Interstate Commerce Act, and it reads:

"At any hearing involving a change in a rate, fair charge, or classification, or in a rule, regulation or practice, after the date this amendatory provision takes effect, the burden of proof shall be upon the carrier to show that the proposed changed rate, fare, charge, classification, rule, regulation, or practice is just and reasonable, and the Commission shall give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible."

They referred to that and gave effect to it in the Judgment in Ex Parte 168, which was the last judgment they delivered in the General Increase Case, in August of this year.

THE CHAIRMAN: I would like to see what they said.

MR. EVANS: I would be glad to have it looked up.

THE CHAIRMAN: I do not mean right now.

COMMISSIONER INNIS: I am sorry to chase you so vigourously.

MR. EVANS: That is what I am here for.

COMMISSIONER INNIS: Mr. Walker has just referred to wages, presumably wage increases which were made upon appeal to the Cabinet. Would your full position be defeated by the fact that it was possible for labour to go to the Cabinet and secure large increases in wages which would compel you to demand large increases in rates? If you shut off the Provinces on the one hand, must you shut off labour on the other?

MR. EVANS: I think it is bad for the Provinces or for labour to have access to the Cabinet. I do not think there is any doubt about it. I think that wages are a matter of bargaining between the employer and the employees, and I think that Government intervention in one is just as bad as it is in the other. I do not know how you are going to prevent it, because they do not do it under a statute. They became, because of the conditions existing during the War, when the Government did control wages, accustomed to finding that the Government was willing to intervene. Therefore they have that indirect invitation to come. In the other cases they have an express statutory invitation to come, and that ought to be removed. Then, perhaps, these things would clear themselves up.

MR. BRAZIER: Q. Mr. Walker, during the last discussion did I hear you correctly when you said that one Commissioner of the Board of Transport Commissioners sometimes hears cases?

A. I am quite sure there is a provision here, but I have not been able to find it.

Q. Section 12; I was going to call attention to it,

Mr. Chairman. It reads:

12. Two commissioners shall form a quorum, and not less than two Commissioners shall attend at the hearing of every case:---"

THE CHAIRMAN: And the Board or chief commissioner may authorize any one of the commissioners. That is in sub-clause B.

THE WITNESS: Yes. It reads:

"(b) the Board, or the Chief Commissioner, may authorize any one of the Commissioners to report to the Board upon any question or matter arising in connection with the business of the Board, and when so authorized such Commissioner shall have all the powers of two commissioners sitting together for the purpose of taking evidence or acquiring the necessary information for the purpose of such report, and upon such report being made to the Board, it may be adopted as the order of the Board, or otherwise dealt with as to the Board seems proper."

MR. BRAZIER: Q. And in your experience would you say that procedure has been adopted many times by the Board of Transport Commissioners?

A. I would not say "many times", but I do know of one instance in which it has been done, in my own personal experience.

THE CHAIRMAN: Q. Section 19 also gives them certain latitude for the expedition of their business; they may sit either together or separately, or privately, or in open court.

A. Yes.

MR. BRAZIER: Q. Finally, Mr. Walker, I would like to refer you to the Appendix of Part 1 again.

THE CHAIRMAN: Just before we leave this, is this right, Mr. Evans: that the desire of your company is to have Section 51 of the Railway Act deleted entirely?

MR. EVANS: No, Mr. Chairman. Section 52 subsection 1.

THE CHAIRMAN: I know, but what about Section 51. Pardon me, I should have said Section 52 subsection 1. Do you wish that to be entirely struck out?

MR. EVANS: Yes sir.

THE CHAIRMAN: That is what I thought.

MR. SHEPARD: Perhaps my friends would like to have Section 38 struck out as well.

MR. EVANS: We take no position on that. It might prove a useful section to remain. I have not considered it.

THE CHAIRMAN: What possible harm can Section 38 do?

MR. SHEPARD: I am not suggesting it can do any harm. I was just trying to find out if that was part of their position.

THE CHAIRMAN: Well, it was under Section 38, I presume, that the late order was made directing the Board to take an inquiry into equalized freight rates.

THE WITNESS: Yes sir.

THE CHAIRMAN: That section provides that the Board may be directed by the Governor-in-Council to deal with any matter or thing arising out of any act of Parliament. I have not heard any objection to it.

MR. SHEPARD: I have not either. I was trying to find out whether they had.

THE CHAIRMAN: All right.

MR. BRAZIER: Q. Mr. Walker, I would like to refer you to the Appendix to your Part 1 where, starting on page 14 you have the history of the development of the Canadian Pacific Railway, and there is just one statement

that impresses me, representing British Columbia. On page 22 you are speaking of the Company's fleet being heavily depleted by the second World War.

THE CHAIRMAN: Are you talking of Volume 1?

MR. SHEPARD: Q. The Appendix, my lord, at page 22. where I read:

"The Company's fleet ----"

A. Yes.

THE CHAIRMAN: What is the paragraph?

MR. BRAZIER: Q. P

"The Company's fleet was heavily depleted ---"

A. I haven't found it.

Q. Page 22.

MR. CARSON: In the middle of the page.

THE WITNESS: Oh yes.

MR. BRAZIER: Q. In the last sentence of the third paragraph on page 22 you say:

"Of the latter, four were recently constructed and two were acquired from the British Government for trans-Pacific service but are being used temporarily on the Atlantic."

A. Yes.

Q. Am I to take it that the Company intends, at some time in the future, to re-establish its trans-Pacific steamship service?

A. If and when conditions in China promise some satisfactory return from the operation of those ships, then, unquestionably we will.

Q. But no definite date has been set yet when that may take place?

A. We do not know how long it will take the communists to clean things up and become a recognized government.

Q. But it is the definite policy of the Company

to re-establish that service if those events occur?

A. Yes sir; not precisely the same kind that we had before, because we had luxury liners on the Pacific service before, and there may not be the scope for them today, with air travel growing to the extent that it has. But we certainly intend to participate again in the Oriental trade, if and when there is sufficient volume to justify it.

Q. I am interested in the type of service you intend to re-establish there, in view of the fact that you have now established an air line from Vancouver to the Orient.

A. We have not made up our own minds yet.

Q. You have ships there now?

A. We have two, but they are primarily freight ships with limited carrying capacity. I think you can take about 30 people in them. But to travel comfortably, they cannot carry more than about 15. And there is some difficulty about carrying doctors and nurses, if you carry more than a certain number of people. I have forgotten just what it is.

MR. EVANS: Mr. Chairman, I now have the reference which I promised to look up. It is in 276, Interstate Commerce Commission reports at page 31, a little paragraph which I propose to read. It follows some discussion of representations made by the Secretary of Agriculture, who had views as to the need for increased efficiency of the railways, and who thought that the increase in the rates ought not to be granted until after they were fully investigated. After reviewing this evidence, the Commission said this:

"It was our conclusion in the prior report that an investigation of the subject, as sought by the motion of the Secretary of Agriculture

and by other motions considered in that Report would be so intricate and involved as to preclude its inclusion in the present investigation, to which, inasmuch as it involved a change in a rate, fare, charge, or classification, we are required under Section 15, subsection 7 of the Act to give preference over all other questions pending before us and to decide same as speedily as possible."

(Page 13567 follows)

---On resuming after recess.

CROSS-EXAMINATION BY MR. CAMPBELL:

Q. If Mr. Walker would permit a question from Canada's smallest province --

A. Meaning?

MR. CARSON: Meaning Prince Edward Island.

MR. CAMPBELL: Q. In your cross-examination yesterday, Mr. Walker, at page 13433, near the bottom of the page, I find this question:

"Q. You would not suggest, Mr. Walker, that the operating conditions in the United States for American railroads are similar to Canadian operations?

A. Very similar.

Q. You would?

A. Yes."

That is correct?

A. Yes.

Q. I should like to invite your comment on a press dispatch which I clipped from the Montreal Daily Star three weeks ago. It is dated at Washington, November 18, 1949, and reads:

"A member of the Interstate Commerce Commission testified yesterday that the Government eventually may have to subsidize American railroads.

Commissioner J. Haden Alldredge told a House Judiciary Subcommittee investigating monopoly that railroads last year lost \$560 million in passenger operations. Commenting on the action of the Commission last Monday in authorizing eastern railroads to increase fares 12.5 per cent, Mr. Alldredge acknowledged that if the railways continued charging more and more for travel they

may 'price themselves out of the market'. As one of the Commissioners who voted in favour of the new increase, however, he reminded the subcommittee that the roads were caught in a current of rising wages and prices, particularly for fuel and supplies, and required higher fares to halt losses in passenger operations. The fare problem, Mr. Alldredge said, is not so much one of making passenger operations profitable for the railroads as of halting passenger losses that have to be made up for out of freight revenues. He said that freight rates probably could be cut 10 per cent if railroads did not take such large losses in passenger operations."

In view of your answer yesterday that operating conditions in the United States for American railroads are very similar to Canadian operations, I would invite your comment on that press dispatch from Washington.

A. I had in mind operating conditions in the United States operating costs, and of course from the standpoint of passenger travel there is very little parallel between Canada and the United States, because as you know in every territory in the United States there is intense competition between sometimes two, sometimes three and sometimes four transcontinental systems for passenger business. They have gone to extraordinary lengths in providing streamlined trains and every conceivable kind of luxury to capture the passenger trade. These trains, while they may appear to pay on the surface, in fact only take away traffic that would be carried on their ordinary passenger trains if they had not gone in for this luxury equipment. To my mind that accounts very largely for the enormous losses in passenger business

in the United States. Fortunately we have not yet reached that stage in Canada, and I hope we never will.

Q. I believe you have before you a copy of the Prince Edward Island submission, Mr. Walker. Would you turn to page 90. I would invite your comment on two or three sentences, which I will read. The first is on page 90 near the middle of the page and reads:

"Col. William J. Wilgus (The Railway Inter-relations of the United States and Canada, 1937) states at page 282:

'Public ownership of railways, nationally consolidated, thus being deemed to be unescapable in the long run . . .'"

I suppose you do not agree with Mr. Wilgus?

A. I think that is an argument of defeat.

Q. At the bottom of page 90 Colonel Wilgus is quoted by Mr. Lesslie R. Thompson as follows:

"But whether or not the majority of other students would concur, the author as a result of his own observation, and reading in this particular field, has reached the conclusion that irrespective of" --

A. I cannot see where you are reading from.

Q. The last paragraph on page 90.

MR. CARSON: The quotation.

MR. EVANS: The second sentence of the quotation at the bottom of page 90.

MR. CAMPBELL:

"But whether or not the majority of other students would concur, the author as a result of his own observation, and reading in this particular field, has reached the conclusion that irrespective of its merits the public ownership

of rails in North America is coming to pass."
You also disagree with that?

THE CHAIRMAN: Would you please repeat that?

MR. CAMPBELL:

"But whether or not the majority of other students would concur, the author as a result of his own observation and reading in this particular field, has reached the conclusion that irrespective of its merits the public ownership of rails in North America is coming to pass."

COMMISSIONER ANGUS: What was the date of that?

MR. CAMPBELL: 1937.

THE WITNESS: 1938.

MR. CAMPBELL: Q. 1938.

A. I think it is implicit in the language itself
author
that the/recognizes there are a great many people at least, if not a majority, who are in disagreement --

THE CHAIRMAN: Q. I was reading; would you please repeat that?

A. I say I think the passage itself indicates that the author recognizes there are a great many people, if not a majority of them, who would disagree with his opinion.

MR. CAMPBELL: Q. Including yourself?

A. Including myself, although he did not have me in mind, I am quite sure.

Q. At the bottom of page 92 there are these words:

"Theoretically and logically public ownership and operation meets the known ills of the present situation better than any other remedy."

That is an utterance of Joseph B. Eastman, United States Federal Co-ordinator of Transportation. You

disagree with him?

A. Yes, I would.

Q. At the top of page 93, the second paragraph, there are these words:

"I incline to the belief that such ownership and operation" --

A. Where is it?

Q. The middle of the second paragraph on page 93.

THE CHAIRMAN: It is really the first full paragraph on that page?

MR. CAMPBELL: Q. The first full paragraph.

"I incline to the belief that such ownership and operation" --

That is by the Government.

-- will be the ultimate solution of the railroad problem."

You disagree with that also?

A. Yes; I am making this all subject to qualification. You pick out a sentence here and there. That may or may not be the real sense of the whole document.

Q. At all events, if that should prove to be the sense of it, you disagree?

A. Yes, I disagree with it.

THE CHAIRMAN: He says:

"I incline to the belief that such ownership and operation will be the ultimate solution of the railroad problem."

MR. EVANS: After referring earlier to the dangers of that.

MR. CAMPBELL: Q. Let us see how far you will agree, Mr. Walker.

MR. EVANS: Would you read the last words,

"Nevertheless I am not now prepared to recommend" --

THE CHAIRMAN: "Nevertheless, I am not now prepared to recommend resort to public ownership and operations." Is he speaking of Canada?

THE WITNESS: That is what I mean. You select a sentence out of what is presumably a large article, and you say, "Do I agree with that"?

MR. CAMPBELL: I am not yet arguing the case, Mr. Walker. I am merely asking the witness some questions on cross-examination. When the time comes for argument I will point out that this was written many years ago, and conditions may now have changed. I am asking you if you consider that any conditions have changed.

MR. CARSON: All that Mr. Evans is suggesting is that you might read the last paragraph.

MR. CAMPBELL: I will be very glad to read it. Fifteen years ago this man said:

"Nevertheless I am not now prepared to recommend resort to public ownership and operations."
The Duff Commission many years ago said that it was not then prepared to resort to public ownership.

MR. EVANS: What point are you making out of this article?

MR. CAMPBELL: I am asking the witness if he says that he is still of the opinion that there is no case now for public ownership.

Q. You would disagree with this statement, even if it were made now, that there will be no ultimate solution of the railway problem unless by government ownership. With that you would disagree?

A. Yes. I would not say ultimately. I do not know what the conditions may be ten, twenty or thirty years

from now.

Q. But at the present moment that is your view?

A. Yes, at the present moment I disagree with it.

Q. On page 91, paragraph (d), I should like to take this paragraph sentence by sentence and see if there is any agreement at any time.

"It is obvious that if railways are to continue to meet the needs of United States and of Canadian transportation, new capital will be constantly required for extensions, improvements, rolling stock, and other capital facilities."

Is that all right so far? Do you agree with that sentence?

A. Yes.

Q. "This future capital can only come from two sources, the Government or the owners of private capital."

A. I agree with that.

Q. "But private capital is only likely to seek investment when there is a reasonably sure return."

A. I agree with that.

Q. "But, due to the conflict between, on the one hand, rising operating costs and taxes upon railways, and on the other, a constant and strong demand for reduction in freight and passenger rates, it becomes increasingly evident by examining the financial record of North American rails over the last three decades that the return to the private investor has been declining."

A. I think that is probably the general trend, although there have been many intervals when it was not true.

Q. "Indeed, since 1931 it has disappeared in

many instances."

A. Notably in the case of the railroads that went bankrupt in the United States.

Q. And in the case of your own railway which ceased to pay dividends?

A. Yes.

Q. "If this decline continues, then ultimately no more private capital will be invested in rails."

A. Yes, but that is based on the premise that operating costs and taxes on railways will continue to increase, and that the rail rate level will not keep pace with it.

Q. So that you must have higher freight rates or less operating costs?

A. One or the other, yes.

Q. And the only alternative to that is government aid?

A. Oh, no.

Q. Let us see where the fallacy is.

A. I do not see the objection to higher freight rates when the general price level of the whole community rises.

Q. I was not speaking of any objection to it, Mr. Walker. The railway must have more revenue?

A. Or less expense, yes, I agree.

Q. And the only alternative to that comes from the government or bankruptcy?

A. Yes.

THE CHAIRMAN: Q. How might less expense be brought about, Mr. Walker?

A. Well, Mr. Chairman, it is not inconceivable that wages will eventually go down instead of going up. I think it is quite possible that there will be a material

reduction in the price level from the present
inflationary level.

(Page 13577 follows)

MR CAMPBELL: Q. And I suppose the competition of trucking plays some part in the picture?

A. A very important part.

Q. If you would turn, Mr. Walker, to the bottom of page 95, the last two lines on the page, this is a quotation from the magazine "Fortune" of June last:

"The trouble with the rate structure today is easy to comprehend. It is being assailed by competing trucks, not as a whole, but only where it offers the most tempting opportunity. The trucker, as one embittered railroadman puts it, 'can roll away with the profitable suits and dresses and leave us hauling the unprofitable canoes and lampshades.' The bigger part of truck competition, as a matter of fact, comes not from the so-called 'common carriers', which issue tariffs and run on schedules, but from privately owned trucks and 'contract' carriers. Thousands of companies are shipping their products in their own trucks. Hundreds of truck owners are taking smaller companies' shipments in cargo lots, at rates that are negotiated to 'suit' the occasion -- an illegal practice for railroads

THE ALTERNATIVES

"So what can railroads do? In the main, and in the long run, there are only two real alternatives. One is to let rails assume a more dynamic role in the economy. This means that government and labor must stop treating them as the monopoly they no longer are. It means that they must be allowed to abandon hopelessly unprofitable operations. It means they must be allowed to market their product -- to set rates quickly and boldly."

And the next paragraph:

"The dangers of such renewed 'freedom' would"---

MR CARSON: You might read the next sentence there.

MR CAMPBELL: I am just trying to save time.

"They should be allowed, for instance, to make contract rates just as the highway carriers make them -- on the moment, by negotiation, even without palavering endlessly with other railroads. All this means nothing less than a radical revision of the Interstate Commerce Act, which for a half century has hog-tied and hamstrung the rails with its intricate windings of restriction and protocol.

"The dangers of such renewed 'freedom' would be obvious, and one can already hear the howls of dismay from the competing front. Admittedly a railroad could put almost any competitor out of business by undercutting him and then recouping its losses on 'railbound' traffic. Not that this recouping is categorically bad: Justifiable rate reductions on competitive traffic must necessarily be compensated for by relatively higher rates on rail-bound traffic. Some regulation, nevertheless, is necessary to prevent the railroads from abusing their position. They must also modernize and rehabilitate to operate more efficiently and thus avoid throwing the whole cost of competing on railbound traffic. Yet the real point is that the railroads' position has changed. Owing to trucks, it is not at all what it was when the I.C.C. was invented. The rails are now engaged in a death struggle with an enterprising competitor. They must be set free to fight.

"THE ALTERNATIVE to this 'freedom' is that the government will have to take over the railroads and operate them."

Q. I would invite your comment on that.

A. Well, I agree with it, except that I do not agree that setting the railroads free would necessarily restore the dangers that existed when railroads were a monopoly. I think a measure of control can be preserved both by the Interstate Commerce Commission and by the Board of Transport Commissioners which would avoid shippers being -- I have forgotten the exact language he uses -- which would prevent the railways, to use his language, from abusing their position. I do not think anybody would suggest that railway regulation should cease in this country, but the conditions under which the railways operate as he describes them are precisely what I meant when I said that we were under wraps in competing with the trucker.

Q. Thank you. Now, at page 13402 of your evidence yesterday, Mr. Walker, in the centre of the page:

"A. So long as that rate is level and reasonable, I do not see whether"---

MR EVANS: I think that is a mistake; I think that should be "So long as that rate level is reasonable".

THE WITNESS: Yes, yes.

MR CAMPBELL: "So long as that rate level is reasonable". Yes, that reads better.

THE CHAIRMAN: Would you read it now as corrected?

MR CAMPBELL: "A. So long as that rate level is reasonable, I do not see whether it makes any difference whether freight rates go up 50% or 100%."

Now---

MR EVANS: Read on. I think you should read the whole answer.

MR CAMPBELL: "The base must be reasonable and every other commodity in this country is selling, not at 50% but at 60 or 70% of its current price in 1939

and we are paying those prices."

Now, with Mr. Carson's permission, may I go back to the first part of the answer:

"So long as that rate level is reasonable, I do not see whether it makes any difference whether freight rates go up 50% or 100%."

Q. Now, the word "reasonable" is what interests me there, Mr. Walker. By "reasonable" I take it you mean reasonable to the railways?

A. And to the shippers.

Q. Well, now, let me see if that is what you do mean. Mr. Pitblado in the 30% case -- that is the 21% case -- you will find this at page 103 of my brief, the Prince Edward Island brief, the first full paragraph on page 103 and the second sentence:

"Mr. Pitblado argued on behalf of the railways"---

MR CARSON: "And if, as Mr. Pitblado argued".

MR CAMPBELL: "And if, as Mr. Pitblado argued" -- certainly everything that Mr. Pitblado argued should be preceded by an "if", as Mr. Carson says.

MR CARSON: No, no. If you are going to quote from your brief, quote it accurately; that is all you are being asked to do. I have never heard of counsel objecting to being asked to quote accurately.

MR CAMPBELL: "If, as Mr. Pitblado argued on behalf of the railways in the 30% Case, (page 15621), no General Freight Rate Enquiry but only a revenue case was within the jurisdiction of the Board, and such jurisdiction extended only to the fixing of rates 'just and reasonable to the railways'," ---

MR EVANS: That is not a quotation.

THE WITNESS: Oh, well, Mr. Pitblado never had any intention in the world of suggesting that rates should

be just and reasonable only to the railways. That suggestion is perfectly absurd.

THE CHAIRMAN: The Railway Act provides how rates must be.

MR CAMPBELL: Q. The rates must be higher than they are now, Mr. Walker?

A. Under present conditions?

Q. Yes.

A. Quite obviously.

Q. Regardless of the burden, as it was called in the 20% Case, regardless of the distribution of the burden or of the so-called equalization of inequities -- I refer you now to the top of page 98.

A. Of what?

Q. The top of page 98 of this Prince Edward Island brief, quoting Dr. Dorau, where he was speaking of raising the amount required for capital expenditure of the railways:

"I did not overlook the question of raising the amount as a whole."

A. I am sorry, I have not found it.

Q. At the top of page 98.

A. Oh, yes.

Q. "I paid no attention to the distribution of the burden or to the so-called equalization of inequities that might exist in any given structure, but I did inform myself as to what the real burden of cost of transportation in this country has been . . . The problem of distribution among classes of consumers and by areas is not part of my concern from the standpoint of measuring the investor's willingness to prefer or accept on equal terms this enterprise as a place to put his money as compared to others. I do

believe frankly the investor cares much or bothers about what that distribution might be."

A. He was speaking entirely from the standpoint of a citizen of the United States or Canada who is looking at ten or twenty or thirty places in which to invest his money, and such a person obviously would not be concerned as to whether Western Canada paid most of the freight or Eastern Canada paid most of the freight. Why would he? He is only interested in the return on the money he invests.

Q. In other words, the investor is not interested in Canada?

A. Oh, nonsense!

Q. Who is this investor, for the large part, Mr. Walker? Is he a Canadian?

A. There is a very large number of them.

Q. I suggest to you that of the ordinary stock of the Canadian Pacific only 14.30% is held in Canada?

A. I think you are probably right.

Q. And of the percentage stock only .46%?

MR CARSON: The preference stock?

MR CAMPBELL: The preference stock.

Q. And that of the total stock, that is, taking the perpetual 4% consolidated debenture stock, the preference stock 4%, and the ordinary stock, adding together the percentages of those three, of which the total would be 300%, that 204.98% of those are held in Great Britain alone?

A. Well, I accept your figures. I have not got the calculations, but I have no doubt they are correct. If we find any error in them we will call your attention to it. The Canadian Pacific would never have been built, sir, if it had not depended on capital from Great Britain. There was not enough money in Canada to build it, and for a great many years those English investors got a satisfactory return

on their investment, and that is why---

Q. I agree. My question---

MR CARSON: Would you let him finish, Mr. Campbell, please?

THE WITNESS: That is why so large a proportion of our securities are held in Great Britain.

MR CAMPBELL: Q. My question had an entirely different purpose, Mr. Walker.

A. Well, maybe, but it was sufficiently pointed to provoke my answer.

Q. I was wondering, frankly, Mr. Walker, whether these holders of shares, with the present position of the dollar, might not be interested in selling them. Now, I hesitate, Mr. Walker, to bring up a matter which is found on page 94 of my brief, because the C.P.R. is a great institution, but we in Prince Edward Island are very small.

A. You do not enjoy the benefit of our services.

Q. For one thing, we do not enjoy the benefit of your services, although, since you have mentioned that -- I did not intend to mention it, Mr. Walker -- we did enjoy for some years the benefit of the Dominion Express Company.

A. I was not even aware of that.

Q. When you came in for a few years and then withdrew. Did you find that the competition afforded in the case of the Dominion Express Company improved the service of express in Prince Edward Island, or were boxes lost?

A. That was long before I had any executive responsibility.

Q. No more would you know whether it tended to reduce express rates?

A. No.

Q. At page 94 -- as I say, you will forgive my referring you to this paragraph; I do so only because of our

smallness in Prince Edward Island:

"In the minds of many people a legend has grown up around the Canadian Pacific Railway, that this is a great national work forming in some way an arch in the structure of the British Empire, but yet that it was a self-created institution, or at least that it was the product of the money put into it by its private owners. A few facts will correct this misconception. The actual beginning of construction work on the system was in 1874, and during the four years of the Mackenzie administration, and for over a year after the return of Sir John Macdonald to power in 1878, it was carried on as a government work. When the government in 1880 handed over the work to the Canadian Pacific Syndicate which was succeeded by the Canadian Pacific Railway Company in the following year, the company received as a gift 710 miles of line in various stages of construction, which had cost \$30,818,414. Then the government gave it a cash subsidy of \$25,000,000 and 25,000,000 acres of land; with exemption from duty on most of the imported materials of construction,

(Page 13587 follows)

- 13587 -

the government granting lands for right of way; with perpetual exemption from taxation on its property; and later on when the company came back for more help, loans and guarantees of interest costing the country \$35,000,000 to \$40,000,000 were made. Bonuses were given to the Canadian Pacific Railway short line to the Atlantic - which had the effect of taking away much of the revenue from the government's own line, the Intercolonial - amounting to three or four millions. The company started out with the ambition of monopolizing the traffic of the West, and to this end got the government to consent to refuse a charter for twenty years to any line south of its main line except in a south-westerly direction; (Agitation in Manitoba in the eighties forced the surrender of this feature of the monopoly, but at a cost to the people of a money guarantee amounting to \$25,000,000 in bonds running for half a century,) and with the same object they got possession by various means of a number of independent local lines that had meantime been built. Some of these lines were bought on the bargain counter, some of them taken over in a state of insolvency, but all of them having previously been aided by cash subsidies, by gifts, by land grants, or by loans, some of which were never repaid."

. As I say, we are small in Prince Edward Island. The reason that I presented that paragraph to you for your consideration is that whereas 710 miles of railroad seems like a bagatelle to the Canadian Pacific Railway, we in Prince Edward Island have had it thrown in our teeth in every rate case, on every case that we have been on, every subsidy case, that "you were given the Prince Edward Island Railway and the Dominion Government assumed the liability of some two hundred miles. That was a big present to the people of Prince Edward Island". So, when we see 710 miles handed over to the Canadian Pacific Railway -

(Page 13590 follows)

MR. EVANS: Is this cross-examination or a speech?

MR. CAMPBELL: Q. I am merely apologizing to the witness for thinking that his railway should regard at all the mere inconsequential gift of 25,000,000 acres of land, which is exactly twenty-five times the size of the Province of Prince Edward Island.

THE CHAIRMAN: Q. What is your question?

MR. CAMPBELL: I have this in my brief, my lord, and were I to stand here without inviting comment from this witness, I might be criticized. So I merely put the paragraph in front of him and invited his comment on it.

MR. CARSON: It is quite a big a paragraph.

MR. CAMPBELL: Very well.

THE CHAIRMAN: I presume, Mr. Campbell, you intend to argue something from it later on.

MR. CAMPBELL: Yes, my lord, and I felt I might be criticized for asking or arguing about it if I do not present it to this witness.

THE CHAIRMAN: Well, it is in your brief, and you can argue anything which is in your brief.

MR. CAMPBELL: Q. Now, Mr. Walker, will you please turn to page 97 at the top of the page, where this quotation from the "Toronto Saturday Night" is found which reads:

"Indeed, so rich are we that we not only pay these extra workers at the prevailing market rate, but we actually pay them whatever they like to ask, since if we did not do so, they would go on strike and deprive us of an essential element in our economic life. They are now preparing to make some new demands in the way of wage increase and improvements in working conditions, which will no doubt

be granted after a little of the usual haggling; But it might be worth considering whether we could not make future wage increases conditional on the consolidation of the two systems and the pensioning off of the supernumerary employees. For while we realize that no worker can nowadays be dismissed merely because his job has become redundant, it might still be possible to look after him only for the rest of his life, and to start saving money on him as soon as he is dead."

A. I do not frankly think this Commission is seriously interested in the observations of newspaper columnists.

Q. Are you saying that you have no interest in that statement?

A. If you are interested in the wage increase, Mr. Crump, who will follow me in the witness box, was the man who negotiated, and he will tell you in detail what happened.

Q. But you already told us yesterday, Mr. Walker, at page 13471, where I read:

"Q. You said a moment ago, Mr. Walker, that in 1947 or 1948 you had to absorb an increase, a wage increase, which cost the Canadian Pacific how many millions?

A. Well, I may be wrong as to dates; I will give it to you accurately, Mr. Frawley. Up to the end of 1945 our aggregate cost for increases in wages over the level of 1939, and on the same comparative volume of traffic, was \$26,139,000.

Now, in 1946 -- I am wrong; I said 1945, I think---in 1946 we had to absorb a wage increase

amounting to \$16,300,000, and in 1948 we had to absorb another wage increase which cost us \$27,000,000."

Q. Now, when you say you had to absorb that wage increase which cost you \$27 million, that is the one that was settled in the atmosphere of a threatened strike?

A. Yes."

And then, at page 13370, the last paragraph, I read:

"We appreciate, too, the feeling of lowered morale which it is suggested must affect officers and employees of the Canadian National in serving a railway which, to put it briefly, does not pay its way. Indeed in recent years the inability of the Canadian Pacific to earn adequate net revenues (while gross earnings were at the highest level in its history) has produced a like feeling on the part of its officers and employees, differing, if at all, only in degree, from that of the officers and employees of the Canadian National."

So it would appear, would it not, Mr. Walker, that the more pay you give to the employees of the railways the lower becomes their morale.

A. Oh!

Q. Is it correct that their morale is lower as their pay goes up?

A. If I said "officers and employees", I meant executive officers, not the men who are getting the wage increases, so far as our system is concerned.

Q. Oh, I see. You say there is no lowering of morale among the dining car crew, the conductors, and

people of that sort?

A. I hope not.

Q. I may have misunderstood it.

A. I may inadvertently have used the word "employees",

Q. I am not speaking of you, particularly, Mr. Walker; I understood that the Canadian National suffered it, that both railway systems were affected. I did not know it until you said it yesterday, that their system felt a lowering of morale; did I hear that put forward by the Canadian National, that their morale was lowered all down along the line, and that their porters, their conductors, and their dining car people did not feel like doing a good day's work because the public was saying: "Oh you have got this deficit"?

A. Their attitude of mind is dictated by what they see. They see men in other occupations earning certain salaries and they believe they should be earning as much. Then when they realize that the people for whom they are working are not making any return on the investment such as industrial concerns are, I can quite conceive how it would affect their morale.

There is not an industrial enterprise in this country today which is not infinitely more prosperous than it was in 1939. You cannot pick up a newspaper without seeing that this or that concern has increased its dividends and has had the best year in its history.

Now then, even supposing that railway men have received an increase which they think is only commensurate with the increase which has been paid in other industries, I can quite understand that they might feel disgusted at the fact that the enterprise they work for should be in the red.

Q. Oh, you would agree with Mr. Kelley who was here

the other day on the stand, when I pointed out to him that the average pay roll earnings by employees of the principal railways in Canada for 1948 was \$2,729.10, and I pointed out to him that the average cabinet minister gets less than that in Prince Edward Island. Then Mr. Kelley suggested that was the fault of the cabinet ministers.

Q. That was what?

MR. CAMPBELL: Q. That it was the cabinet minister's lookout and not his.

A. There is nothing rational about earning power. Some starlet in Hollywood makes a lot more money, probably, than all of us combined in this room. It is economically silly, but it is a condition.

Q. So therefore you would agree that to have average payroll earnings for railway employees of \$2,729.10 might be economically silly?

A. I do not know how that wage level compares with other industries.

Q. Now at the back of book 2, in the Canadian Pacific submission, at page 16 -

A. Which volume?

Q. Of Part 2, page 16 at the back.

MR. EVANS: That is the "Outline Submission".

MR. CAMPBELL: Yes.

MR. EVANS: The Appendix.

MR. CAMPBELL: Q. There may be some other place where this appears, but this was the only place I was able to find it.

MR. EVANS: We reproduced the "Outline Submission" at the end of Part 2 as an Appendix to Part 2, following page 170.

MR. CAMPBELL: The second paragraph on page 16,

"As to the recommendation in Part 2 ---

THE CHAIRMAN: Pardon me, but we would like to find it.

MR. CAMPBELL: It is at page 16. If your lordship would start from the back of Part 2 and move in two pages.

THE CHAIRMAN: Yes, we have it now.

MR. CAMPBELL: It is an Appendix to Part 2.

THE CHAIRMAN: Yes, we have it.

MR. CAMPBELL: Q. Page 16 is headed:

"The submissions of the Province of Prince Edward Island ."

And in paragraph 2 I read;

"As to the recommendation in Part 2 Canadian Pacific is opposed to the amalgamation of the railway of Canadian Pacific with that of Canadian National."

Do you agree with that?

A. Yes.

Q. Were you an officer of the Canadian Pacific Railway in 1933?

A. Yes, I can safely I was.

Q. Would you please turn to the bottom of page 106 of the Prince Edward Island brief.

A. At the bottom did you say

Q. Yes, if you please. Sir Edward Beatty was speaking to the Canadian Club in Toronto on January 16, 1933, and he said:

"If we were mistaken in our appreciation of the value of competition, or did not sufficiently realize the waste and losses it involved, and especially involved in railway competition between the Government of Canada and a private company, should

we perpetuate another fallacy on the assumption that we can have competition and co-operation that we can struggle for conflicting interests and yet not conflict? Why delude ourselves into the belief that we are supermen, indifferent to the spirit that competition and contest provoke, that we can maintain our own traffic and revenues and yet divide them, that we can act like enemies and friends at the same time, and, lastly, that we can afford to do the things we cannot afford to do and perpetuate the waste we cannot afford to perpetuate."

And again, on February 8, 1933, at Winnipeg, he said:

"Some of the proponents of continuation of the present situation begin and end all arguments with the simple phrase: 'It is against the interests of this country'. I often wonder if those who so complacently use this argument ever seriously consider what the interests of Canada are. Do they consist, in their estimation, in the maintenance of two systems operating in competition and under the hazard of possible bankruptcy, or in a unified system which will provide adequate facilities to all parts of Canada, with economy in operation and administration not possible of attainment by any other method?

No scheme of co-operation between competing companies however far it may be pursued, will effect these essential economies without risk to the integrity of one property or the other, and corresponding damage to Canadian credit.

The necessary economies can be reached through some form of unified operation and control. ---

I am unqualifiably in favour of unification of these properties for the purpose of administration. Most careful and comprehensive enquiries by the officers of the Company ---

Of whom you say you were one, Mr. Walker ---

A. When I said that I was one, I was out practising law in the province of Alberta at that time.

Q. I mean I asked you that question.

A. I said I was an officer of the company. But I had no executive responsibility. I was merely solicitor for the Province of Alberta.

Q. "Most careful and comprehensive enquiries by the officers of the Company have persuaded me that under unification permanent economies of seventy five million dollars a year will be secured after a reasonable period has elapsed to permit adjustments to be made in an orderly way. These economies are not of the temporary or distress variety which the depression has forced upon us, and they are not designed to eliminate any essential service to the public or remove trackage where its retention is necessary in the National interests, and where there is not already in existence another facility capable of adequately providing for traffic needs."

And again, at the top of page 108.

MR. EVANS: Is there a question here, or are you just going to read your brief? Is there a question for the witness.

MR. CAMPBELL: If my learned friend has any objection, I am in exactly the same position with regard to this as I was with regard to the other paragraph.

THE CHAIRMAN: With regard to what?

MR. CAMPBELL: With regard to the other paragraph which I mentioned some time ago.

THE CHAIRMAN: I was wondering if it would be possible for you to shorten your questions a little bit and give Mr. Walker just the gist of these various statements which are made and ask him if he agrees with them or not, then I think we will have something which will be of value. Otherwise, if you are simply arguing in favour of a certain disposal of the railway problem, I think that had better come later on.

MR. CAMPBELL: Q. You are not in favour of unification as proposed by Sir Edward Beatty in 1933?

A. You did not ask me that. You asked me if I was in favour of amalgamation.

Q. Well, I am asking you now.

A. That is a very different problem. Unification is not amalgamation. However, the situation has very greatly changed. Sir Edward Beatty was a wise and far-seeing man, but he did not foresee another world war, nor did he foresee the extraordinary advances in industry and in the economic life of Canada which followed that war.

Q. At the bottom of page 1339⁴ of your evidence yesterday I read:

"No more today than in 1917 or in 1931-2 does the Canadian Pacific want to be taken over by the Government."

Was it the proposal of the late Lord Shaughnessy that the Canadian Pacific be taken over by the Government?

A. At one time, in the early days, I think it was back in 1916 or thereabouts, when the results of the Grand Trunk Pacific venture were becoming apparent, he did suggest that the systems of railways should be

unified and that they should be operated under one management, the Government guaranteeing a fixed return. He did not specify what that return should be, but suggested that it was a matter of negotiation, and that the Government should guarantee a return to the stockholders of the Canadian Pacific. That was the only consideration I remember.

Q. And then, the Government upon undertaking such a guarantee, would become the owner of the Canadian Pacific?

A. Well, the property was to be managed by the Canadian Pacific in order to remove it as far as possible from political interference and control.

Q. And the title would be in the Government of Canada?

A. I do not know. I do not think they even got that far.

THE CHAIRMAN: You refer at least to what Lord Shaughnessy said at page 112 of your brief.

A. It was a proposal that was never seriously considered by the Government, or at least they gave no evidence that they ever did seriously consider it.

MR. CAMPBELL: No, but Lord Shaughnessy seriously considered it?

A. Yes.

Q. And he proposed it to the Government in 1917?

A. No, in 1921.

MR. CAMPBELL: Q. And again in 1921. In 1917 and again in 1921.

THE CHAIRMAN: Now, Mr. Campbell, these things are all set out in your brief as facts, with the references the dates, and the names of the persons. What is the object of your present examination of Mr. Walker? Is it to ask him whether he agrees or disagrees with these

THE HISTORY OF THE

... of the ...
... of the ...
... of the ...
... of the ...

... of the ...
... of the ...

... of the ...
... of the ...
... of the ...
... of the ...

THE HISTORY OF THE

... of the ...
... of the ...
... of the ...
... of the ...
... of the ...
... of the ...

... of the ...
... of the ...

... of the ...

... of the ...
... of the ...

... of the ...

... of the ...

... of the ...

opinions expressed from time to time by other officers of the Canadian Pacific? Or do you wish him to admit that these things were said?

MR. CAMPBELL: Q No. I was wondering if Mr. Walker desired now to qualify the sentence at the bottom of page 13394.

A. I have not the slightest desire to qualify it in any way.

Q. No more today than in 1917 does the Canadian Pacific want to be taken over by the Government.

(No answer)

MR. CAMPBELL: Thank you, Mr. Walker

THE CHAIRMAN: Does anybody else wish to question the witness?

CROSS-EXAMINATION BY MR. HUME

MR. HUME: Q. I have not got very many questions; but there were one or two points which came up as a result of your statement yesterday, which I would like to ask you about. The first of such appears in yesterday's transcript at page 13362 in the second paragraph of your statement, wherein the second sentence contains these words: "Rapid growth of unregulated competition"; and what I wanted to ask you, Mr. Walker, is whether or not you are referring there to the competition of the shipper who is moving his own goods in his own vehicle?

A. That is one of the factors, unquestionably.

Q. Well, is there any other competition you are faced with that is unregulated.

A. Yes. There is the operation of contract carriers and licensed truckers.

Q. Well, "unregulated" by whom?

A. I do not mean completely unregulated; but I mean: Are unregulated in the sense that they are not

under the same statutory duty to carry and provide facilities for the carriage of all commodities, as are the railways.

Q Are you familiar with the statutory provisions of the various provinces relating to commerce?

(Page 13608 follows)

A. Not with all of them, no; in fact not as of recent date with any of them.

Q. So that so far as you know there may be, let us say, some provinces that have statutory requirements as to these various matters?

A. There may be, yes.

Q. In other words, when you use the words "unregulated competition" you do not mean that in the sense that one might mean it; you mean it in the sense that the railways are regulated?

A. To a vastly greater extent than are the trucks.

Q. Yes. Is it fair to paraphrase that phrase by saying this, the rapid growth of competition unregulated by some central authority; is that what you mean?

A. No. That would be true in so far as inter-provincial trade is concerned, or interprovincial trucking is concerned, but I doubt whether even in those provinces where the statute may provide for regulation in explicit terms, it is feasible or practicable to enforce those regulations.

Q. You do not know, however, from your own knowledge, whether or not the provinces that do impose regulations, let us say, on rates -- whether or not they do in fact police it?

A. Well, I think perhaps they may possibly police them on rates, but even there I do not know how far it can be made effective. I know that the statutes provide for tariff rates and the observance of these tariff rates by highway carriers, but certainly in my own experience in the province of Alberta there was never any attempt at enforcement.

Q. Of what time are you speaking?

A. I am speaking of ten or fifteen years ago.

MR. O'DONNELL: There has not been any change since.

THE WITNESS: But the statutes were in force in those days, just as they are now. Even in the instances that we brought to the attention of the provincial authorities no action was taken. I grant it is a difficult problem.

MR. HUME: Q. Do I interpret your last answer to indicate that there is a real problem even in the provinces trying to regulate and police a large number of commercial truckers?

A. I do indeed. I think it is a very difficult problem to solve, and even reputable truckers suffer from it no doubt almost as much as we do by reason of the fact that there are irresponsible truckers who defeat the purpose of the statute. I think most of the trucking companies make an honest effort to observe the law, but there are a great many who do not.

Q. Then, Mr. Walker, will you agree with me if that is so within the provincial sphere it would be increased a great many times by attempting to regulate that industry, if it were constitutionally possible, from a central authority in Ottawa, let us say?

A. No, I think the problem could be solved if some constitutional changes were made, and I do not see any reason why they could not be made or should not be made. First of all, all that is necessary to accomplish it is for the provinces to surrender to the Dominion their control over the highway carrier as a carrier, not with respect to the use of their highways or safety regulations or things of that kind, but merely to transfer jurisdiction from the province to the Dominion in respect

of his function as a carrier. No one has ever suggested or could suggest that the jurisdiction of the Board of Transport Commissioners over purely intra-provincial rates has caused any hardship to Alberta or Manitoba or British Columbia any more than it has over inter-provincial rates. I think with an honest effort a scheme could be worked out between the provinces and the Dominion by which the Dominion could assume complete jurisdiction over the operations of highway truckers in respect of their operations as carriers, without surrendering any jurisdiction of the provinces over the use of their highways or safety of the operation.

Q. Then, let me ask you this, Mr. Walker. If that came about, and it were possible by what you suggest that some tribunal or board under the Dominion Parliament could assume this jurisdiction, and they took this position that the situation as of now would not be changed, would that satisfy the railroads?

A. The situation as --

Q. As it stands today. They are not going to interfere with the sectional regulations that now exist in each of the provinces. Would that satisfy the railways?

A. The two could not stand together. I do not think you could have Dominion control over the carriage of goods by trucks and at the same time provincial control.

Q. Let me ask you this --

A. You would get into the same confusion you have in the United States where there is divided jurisdiction as between the Federal Government and the state governments with regard to interstate commerce and intra-state commerce.

Q. Let me ask you this. If this central authority were to take the position that they approve of the regulations that now exist in the Province of Alberta -- you have mentioned you have some experience there -- and that the situation that now exists in the Province of Alberta shall be Dominion-wide, would that satisfy the railways?

A. I don't know what the regulations are today in the Province of Alberta.

Q. I am sorry, I thought you said your experience --

A. I said today.

Q. I heard somebody say, and I think it was my friend, Mr. O'Donnell, that there has been no change since you were there. In other words --

A. I cannot conceive of the Dominion adopting any particular province's regulations: I should think they would want to work out their own with a combination of probably the best features of all of them.

Q. May I suggest this to you, and if my interpretation of your view is incorrect I know you will correct me, that the reason why the Canadian Pacific Railway wants a central control of all transportation is to afford a measure of protection to that railway against other forms of competition?

A. No, it is not only a measure of protection to the Canadian Pacific. It is a measure of controlling the real cost of transportation.

THE CHAIRMAN: Mr. Hume, we will resume at a quarter to three.

---The Commission adjourned at 1 p.m. to resume at 2.45 p.m.

AFTERNOON SESSION

Tuesday, December '13, 1949.

MR EVANS: In view of the cross-examination by Mr. Campbell this morning, when he made reference to a portion of Prince Edward Island's brief, I thought I should put on the record two aspects of statements made there which I think are clearly inaccurate. I refer to page 103, where the statement appears which was used by Mr. Campbell in his cross-examination. You will see, in the second sentence of the first paragraph following the incomplete quotation at the top of the page:

"And if, as Mr. Pitblado argued on behalf of the railways in the 30% Case," --

and there is a page reference to the transcript --

"no General Freight Rate Enquiry but only a revenue case was within the jurisdiction of the Board . . ."

Now, that is the first inaccuracy. No such argument was ever made by anybody, including Mr. Pitblado, on behalf of the railways.

Now, the second statement:

" . . . and such jurisdiction extended only to the fixing of rates 'just and reasonable to the railways', despite the finding"

and so on. At the page in question, which I read at noon, there is no reference to either of those statements. There is an argument that rates should be just and reasonable to the railways, but if my friend Mr. Campbell had looked at page 15627 of the transcript in the 21% Case he would have found this statement adopted by Mr. Pitblado, at the bottom of the page:

"Further, if the rates fixed are not fair and reasonable to the railways as well as to the public, the public will suffer,"

and so on.

I thought it was only fair that those two inaccuracies should be pointed out.

GEORGE A. WALKER, K.C., Recalled.

CROSS-EXAMINED BY MR HUME:

Q. Mr. Walker, may I suggest to you this, that it is not the lack of regulation as you interpret it that is affecting your railroad, but basically it is the fact that traffic is now being diverted over the highway that used to move by railway?

A. Well, the one includes the other, I think, Mr. Hume, to some extent.

Q. Well, there are regulations, we have heard, on trucks, but they do not go far enough, according to certain evidence that has been presented here, to assist the railways, and I am suggesting to you that it is not the lack of regulation that is the cause of your complaint, but it is the fact that basically the traffic is now moving by another medium of transportation?

A. I cannot say as a matter of personal knowledge what the regulations are.

Q. No, I realize that.

A. And we are not looking for assistance. What we are suggesting is that the existing conditions of competition are not fair and reasonable. Now, I am most unwilling, Mr. Hume, to say anything inaccurate or unfair. We recognize the value of the trucking industry to the shipper without any reservation at all, and, while I do not profess to know at the moment what the license fees are or what the taxes imposed on trucking industries are, unless the information that is furnished me is quite unreliable, my view is that the burden borne by the

trucking industry in relation both to the cost of construction and the cost of maintenance of the highways they use, is utterly disproportionate to the relative cost borne by the railways with respect to the construction and operation of their railways. Now, I cannot put it any better than that.

Q. Then, Mr. Walker, in the Canadian Pacific brief at page 197, under the heading of "Highway Transport", there appears---

THE CHAIRMAN: In what volume?

MR HUME: Q. At page 197 of Part I, there appears the short statement that the Canadian Pacific adopts and relies upon the final submission of the Railway Association of Canada. That is the reference in your brief; it is that short reference.

A. Well, I have no personal knowledge of what counsel have in mind by way of verifying that. It is not a matter of which I have any personal knowledge.

Q. All right. Then may I ask you this: When yesterday, at page 13455 of the transcript, you were talking about the Trans-Canada Highway, in answer to some questions by my friend Mr. Frawley you said:

"I have a large quarrel with their (referring to the Dominion Government) spending \$300,000,000 on a transcontinental highway to compete with their own railway, and which will make transcontinental trucking possible."

You have qualified that this morning, I know, but the next sentence is:

"Moreover, nobody suggests for one minute that the truckers will pay even an infinitesimal fraction of 1% of the cost of that highway."

Am I entitled, therefore, to assume that again you had no

personal knowledge of the percentage or the number of dollars which the trucking industry is now contributing to provincial treasuries for the cost and maintenance of highways?

A. No, I have no personal knowledge of it.

Q. And if the Railway Association appendix, which is Exhibit 121, sets out certain facts and figures, so far as you know those facts and figures are accurate?

A. As far as I know, yes.

Q. Then may I ask you, sir, what was the basis upon which you made that statement, that the truckers will not pay an infinitesimal fraction of 1% of the cost of that highway?

A. Well, I understand that a very large proportion of this money is being contributed by the Dominion Government to the provinces, and so far as I know there has never yet been any suggestion that any part of the cost of construction or the interest on the cost of construction would be borne by the trucking industry.

Q. So that by this statement made yesterday you do not mean cost of the highway, you mean cost of the highway to be borne by the Dominion Government?

A. Yes.

(Page 13616 follows)

Q. And then again and lastly, Mr. Walker, in answer to Mr. Brazier talking about flood damage in British Columbia at page 13494, you discussed about the highways being damaged and you made this statement:

"And the highways will be repaired and the trucks will resume business as though nothing had happened".

May I ask you, sir, whether you mean to imply that the trucks will not pay any share of the cost of repair and maintenance of those highways damaged by floods?

A. Specifically?

Q. Yes.

A. That is what I intended to convey, yes.

Q. Do you know the amount of money collected from the trucks in gasoline tax and license fees in that province for their repair work?

A. No.

Q. So that so far as you know the entire cost of repairing highways in that province may be borne by the user and the trucker in proportion?

A. It may be, but I doubt it very much.

Q. But you do not know otherwise?

A. No, I do not.

Q. You have been told perhaps otherwise over the years, and you believe that. Is that right, sir?

A. I do.

- - - - -

EXAMINATION BY MR. COVERT

Q. Mr. Chairman, I have asked the other counsel whether they have anything further, and I understand no, so I propose asking Mr. Walker a few questions. Mr. Walker,

would it be a fair statement to say that from the point of view of the railways in Canada today that at least you feel that the main problem is the inability to obtain proper rate levels in view of the rising costs of labor and material?

A. That is the crux of the problem as I see it.

Q. That in your opinion is really the crux of the problem?

A. Yes.

Q. And I presume that would apply to both the Canadian National and the Canadian Pacific with the perhaps possible distinction that you made yesterday, that the Canadian National cannot go into bankruptcy?

A. Yes, I think it applies equally to the Canadian National except that the results to them will not be as disastrous to them as it might be to us.

Q. Now, the first thing I wanted to ask you arising out of that was whether or not you felt there was any amendment to the Railway Act necessary to ensure that that situation be corrected?

A. Oh, I don't think that any amendment to the Railway Act is necessary unless it should be decided as a matter of parliamentary policy that a basis of rate of return on investment value should be adopted rather than this somewhat loose phraseology of "just and reasonable rates".

Q. Now, there are two things I would like to take up with you in respect of that. The first, dealing with just and reasonable rates: My understanding is that the cases have interpreted that phrase to mean just and reasonable to both the railways and the shipper?

A. Yes.

Q. And it occurs to me that that may be one of the troubles, Mr. Walker, because as I think it was Dr. Angus

pointed out, it leaves a great deal of room for argument between the two, and then I think in one part of the Canadian Pacific Brief I think they say that in the long run the consumer really pays the freight?

A. Well, of course, I doubt very much no matter what amendments were made to the statute if we shall ever get away from just and reasonable rates.

Q. That is that phraseology you mean?

A. Because, after all every rate-regulating statute recognizes an obligation not to discriminate, not unduly to prejudice the movement of any type of traffic. That involves always a consideration of the rate on which the traffic moves as compared with the rates on which other traffic moves and the rate in one locality as compared with the rate in another locality. All that is bound up in the provision for just and reasonable rates. You have got to determine whether the circumstances and conditions under which the traffic moves are similar and so on.

Q. Well, what I was coming to, Mr. Walker, was this, that if in general the consumer pays the freight, then the shipper in general passes it along so that the shipper's main interest may be that what he is worried more about than anything else is discrimination between himself and a competitor?

A. Well, none of these generalized statements are ever true, you know Mr. Covert. I do not think it is true to say that the consumer pays the freight.

Q. That is in the long run?

A. There are innumerable examples in Canada cropping up every day where a commodity produced, we will say in Montreal, sells at a lower price in Windsor or in London than it does in Montreal.

Q. I wanted to say, Mr. Commissioner, that when I said

that I said in the long run, and as a matter of fact, I think I took it from the Brief of the Canadian Pacific. I think the view that the Canadian Pacific holds/^{is}that freight costs are one of the costs of production of an article, getting it into the hands of the consumer. Therefore, in the long run as a general proposition, the consumer does pay that along with other costs of production.

A. Competition, of course, between manufacturers often results in the absorption of freight by a manufacturing concern.

Q. I am not suggesting for one moment, Mr. Walker, that there may not be exceptions in particular instances, but I am speaking in general and in the long run?

A. Generally speaking the cost of transportation enters into the price of any commodity when it reaches the consumer.

Q. Then, what I wanted to come to was, as I say, I wanted to get your views as to whether or not that was perhaps one of the difficulties with the use of the words "just and reasonable" and having them interpreted as being just and reasonable to the railways and to the shipper and I thought that I intended carrying it along further, suggesting that in these large increase cases that it did not seem to be as much that the shippers were complaining but that perhaps the provinces, the provincial governments were complaining because a new element had been considered and that was that the provinces felt that they were perhaps acting for the consumer, and I think Mr. Frawley, perhaps, is the champion of that view?

A. Well, of course, the provinces appeal to the Board of Transport Commissioners because the transportation rate can be controlled but they have no control over the

increase in the cost of the commodity itself which is out of all proportion in its burden on the consumer to the increase in the freight rate. I mean, you do not hear anybody complaining about the increase in the cost of motor cars as motor cars. You will only hear about the increased cost of transportation.

Q. There may be a complaint, Mr. Walker, but as you say they have no place to go to make a complaint?

A. No, no place to go.

Q. But what I was trying to explore was whether or not that was one of the difficulties that the railways are encountering today and that possibly there should be some attention paid to those words "just and reasonable" that has not been paid in the past?

A. Well, at the moment and without a good deal of consideration, I could not think of an appropriate phrase to substitute for it.

Q. Now then, I want to take up another matter with you, Mr. Walker, and that is, I think you would agree that the two railway systems, the two large railway systems in Canada, constitute two very potent factors in the economic life of this country?

A. Two of the most potent, I would think.

Q. And I suppose that it follows from this that there are great powers in the hands of the management of the two railway systems?

A. Well, none that can be wielded with the force of anything like a club, Mr. Covert.

Q. I am not suggesting a club. What I was going to say, for example - perhaps I can enlarge on that. If, for example, efficiency of management could bring about large

savings, efficiency of the railways should be a matter for the managements of the railways and that might or might not, whether they exercise it, mean an increase in the level of rates?

A. Unquestionably the efficiency could do a great deal. If some of the rigid regulations were removed management could be much more efficient than it is today.

Q. Yes. Now, I just gave that as an example and then too I think a railway's decision as to whether or not they put in competitive rates may affect the economic life of a section of the country?

A. Yes.

Q. So I suggest as a result - I am just trying to draw to your attention, that they have great power in their hands and it is coupled with what must be, I assume, pretty onerous duties and responsibilities?

A. Yes.

Q. And when they do decide, for example, to make an application for a horizontal increase, a straight percentage horizontal increase right across the board, that, I suppose, is an exercise of the functions of management? That is where management decide as to the form that the application will take?

A. Well, we decided as a matter of policy that there was no alternative.

Q. I am not quarreling with that.

A. I understand, but I mean to say any other system would have involved not a delay of eighteen months such as took place, but double or treble eighteen months. If you tried to adjust every rate in the country, you would just never reach an end of the investigation.

Q. I am not quarreling with the horizontal increase, at least not yet Mr. Walker. I wanted to go on and ask you

at that point whether or not the situation might have been a great deal different if, for example, you had been permitted to make similar increases during the period of the war, and whether it might not even have been noticed, there might have been no objection to it at all?

A. Well, it would have mitigated our problem very seriously, but as a matter of fact during the period of the war and for some time afterwards while price control remained in effect we were not even allowed to increase competitive rates although the competition had completely disappeared. That added very greatly to our burden.

Q. And pursuing that a little further, I suppose that it is a fact that the application came at a time when I believe it was the opinion of many that we were about due for a depression, that that may have frightened people into thinking that this 30 percent increase might be a terrible thing for business?

A. Well, I think there were a good many people who apprehended a depression.

(Page 13627 follows)

Q. For example, I think the C.P.R. themselves expected that their traffic would fall off. I think that was indicated at the time during the application.

A. I do not remember, but there was some apprehension as to whether traffic would be maintained at the war levels, and of course it has not been. We are still enjoying a high volume of traffic, but it is diminishing gradually day by day.

Q. What I really wanted to find out from you, Mr. Walker, was whether or not you felt that, although for example rates had increased tremendously in the United States and I think as you pointed out in Great Britain also, rates having been frozen in Canada this perhaps came as a shock to the people, and if you had been permitted to make smaller applications it might not have been such a shock and perhaps the applications would not have been as severely opposed?

A. That may be, but I am not a psychologist, I could not say.

Q. You would not care to express any opinion. I should like to read to you, Mr. Walker, a quotation from the Duncan Report. It is on page 23 and reads as follows:

"The President of the Canadian National Railways"-- I think at that time it was Sir Henry Thornton.

A. I think so.

Q. "-- system agreed that it was part of his function" --

A. Where is that?

Q. It is in paragraph 12, about the fourth line.

"The President of the Canadian National Railways system agreed that it was part of his function, as head of the railway system he was administering,

to make a survey of the natural basic products of the country, and to try within broad limits to adjust his rate structure so as to give the fullest chance of development to all natural products in whatever region of his system they are located. He likewise regarded it as his function to make a survey of the industrial possibilities of the whole territory covered by his system, to see whether industries placed at a distance from a central market, particularly when they were capable of development which might ultimately render them either directly or through associated enterprise, remunerative to the railway, were given a reasonable chance of finding their market."

I wondered, Mr. Walker, if you feel the same as Sir Henry Thornton did.

A. I have no particular criticism of that so long as it is not carried to the point of producing an artificial situation in which you are performing unnecessary transportation functions.

Q. Now, do you say, Mr. Walker, that the Canadian Pacific does carry out a policy of that kind?

A. Yes, we have an industrial commissioner with subordinates across Canada whose sole function is to develop every sort of industrial opportunity with a view to providing traffic for our rails.

Q. Then, would you say this, Mr. Walker? I think this proposition was put to us by Mr. Lionel Forsyth in the regional hearings in Montreal, and I am paraphrasing it --

A. Just offhand I would disagree with that.

Q. I think his suggestion was, Mr. Walker, that

in the case of a horizontal increase of this magnitude that perhaps the proper thing to do would be to apply for it as a temporary measure, give it an opportunity to operate for a period of six months or some definite period of time, at which time the railway might come back to the Board and say: Well now, we have studied the effect of this during this time, and the railways would then propose any adjustments in rates that might have worked hardship in the case of long-haul traffic in basic commodities.

A. That is only putting in another way the position we took before the Board itself.

Q. Except I think, Mr. Walker, they suggested that the people themselves would come back and make the application?

A. No. What we said to the Board was that while the Board -- let us get the background first. When we made the first application we were met by a contention raised on behalf of the seven provinces that the Board had no jurisdiction to entertain an application of this kind, or to order a horizontal increase in freight rates. We met that after a visit to the Supreme Court, and we then pointed out to the Board that, while they might order a horizontal increase, the Board always had the power to order us to submit monthly returns of our earnings and expenses, and the moment the Board felt that the railways were earning an undue return they could summarily order a reduction in the horizontal increase, as they had previously done on many occasions. In the twenties there had been horizontal increases, and there were horizontal decreases ordered by the Board of its own motion on very short notice.

Q. I think though, Mr. Walker, that is slightly

different from the matter to which I refer. That was the case where a horizontal increase brought the railway too much revenue, and that amount of increase was not necessary. What I am talking about is the effect on long-haul traffic in basic commodities.

A. On particular industries, you mean?

Q. Yes.

A. Well, Mr. Covert, I think there is hardly a day passes when, on the suggestion of any industry that they are being hampered by excessive freight rates, our freight traffic manager does not sit down with them and go into the entire economics of their position, and their competitive position with relation to other competing industries. We make every effort to adjust the freight rate to enable the industry to prosper. We do not wait for complaints to the Board of Transport Commissioners. It is quite a mistaken idea, you know, that the railway companies are wedded to high freight rates. Our ambition is to keep freight rates as low as possible, and in doing so to move the maximum amount of traffic and give the greatest possible encouragement to industry.

Q. I just want to clear that part up. I want to find out if I have fairly put the proposition that Mr. Forsyth put. You disagreed with it before I put it, and I want to find out if you disagree with it now?

A. Perhaps I did not understand it.

Q. My understanding was that he put it to the Commission that the application in such a case should be purely on a temporary basis, and then after it had had an opportunity to work the railways would see how it was working and would come back to the Board of Transport Commissioners with rates that would then be

made permanent, that they would have had experience in the meantime to see how it was affecting long-haul traffic and particularly, as he mentioned, on basic commodities.

A. Well, I don't know that I would quarrel with that very much, because certainly if we found that an increase in freight rates had reached the law of diminishing returns we would be back either to the Board or voluntarily reducing freight rates. Have I met your point yet?

Q. Yes, except that you add a qualification, but I do not want to press you any further. You add the qualification of a diminishing return. You are thinking more of the return to the railway. I think Mr. Forsyth was thinking more of his operation, which is only natural, but constant with keeping the revenue of the railway, it is the adjustment of the freight rate structure, and more or less by the railways' own application, to meet what he maintains of course is the difficulty raised by the effect of horizontal increases on long-haul basic commodities.

A. Of course I was not in the case except as a witness, and I don't know what took place.

Q. This was a presentation before this Commission.

A. I would have been surprised if our counsel had refused an adequate increase on any interim basis, whatever it might be.

Q. It occurred to me, Mr. Walker, that might be a method of perhaps shortening the hearings and the length of time required before a decision, and might prevent a long time lag between the time when you were at least getting some increase compared with no increase at all and waiting for it.

A. Really the true situation is this. The inquiry was not prolonged by reason of the need for proving the railroads' necessities. It was prolonged by reason of the fact that hundreds of complaints were brought before the Board in an application based on our necessity, which arose out of what was regarded as territorial or individual discrimination. As I pointed out in my cross-examination when I was in the witness box, the complaints that were made in the 21 per cent case had been dealt with by the Board on at least three occasions, the last of which was in 1925 and 1926, and although the provinces complained of these as grievances, they had done absolutely nothing for over twenty years to have them investigated, and we thought it most unfair that when we were compelled to go to the Board for an increase in freight rates the merits of our application should be delayed for eighteen months investigating complaints that the provinces had said nothing about for twenty years. That was the sum and substance of the delay that took place.

Q. That may be getting back, Mr. Walker, to the very point that I raised in the first instance, that perhaps it was not the shippers who were opposing it; it was the provinces.

A. I did not quite get that.

Q. As I say, apparently so far as the shippers are concerned, you say twenty years went by and they made no complaints?

A. Yes. I don't know how familiar you are with the practice before the Board, but it only needs a letter or a telegram to start it moving.

MR. FRAWLEY: Or a postcard.

MR. O'DONNELL: Even a postcard.

MR. COVERT: Q. I understand that, Mr. Walker, but as I say, I do not want to pursue it too far. It does seem to me that there may be a great deal to it as to which is actually opposing a freight rate increase, whether it is a shipper or whether it is an argument really on behalf of the provinces.

(Page 13635 follows)

A Well, there were lots of both, in their recent inquiries.

MR. EVANS: You are not suggesting that the provinces were not the main spring of the opposition in all the other cases, Mr. Covert?

MR. COVERT: No, I am not. But it seemed to me from Mr. Walker's answer that for twenty years the shippers did not complain.

THE WITNESS: Or the consumers, or the provinces or anybody else.

MR. O'DONNELL: "Interested parties" the Board called them.

MR. COVERT: Q. I suggest the fact that a shipper did not complain over that period and was shipping his goods, and so on, would indicate that he was not, or could not have been in too bad a position.

A. Well, Mr. Covert, the provinces were represented individually by counsel in the Western Freight Rates Case, in the intervening cases, and in the General Freight Rate Investigation in 1925 and 1926. The provinces were the chief protestants and I presume they were acting for the consumers rather than for the shippers. They may represent both, but at any rate, they certainly represented the consumers; and nothing could have been more complete than the presentation they made in 1925 and 1926 in the General Freight Rates Investigation.

And then as I say, although they could have applied to the Board within the twenty-five year period for a re-hearing on the ground of changed conditions or additional grievances, or what have you, nevertheless they waited until we were obliged to apply for an increase of freight rates, and then they insisted that

an investigation of these grievances be gone into, which occupied a period of eighteen months, although during most of that time we had, in our first application, I think, said that we would have no objection to facilitating the General Freight Rate Investigation, but that our need for additional revenue should not be postponed until the completion of that investigation.

Q. There were, I suppose, in 1938, or around that time, when the Sirois Commission was going from one end of the country to the other, I think, practically the same complaints appearing again.

A. I think there were some general representations, but I do not think they were dealt with with the particularity that they were dealt with before the Board of Transport Commissioners.

Q. To go now to another point, there have been, as you know, several suggestions before this Commission that the railways should be used as national instruments. I think in most cases the people who said that have also said that they want the Canadian Pacific to continue as a free enterprise. Now, I understand that your views are that the Canadian Pacific cannot continue to be a free enterprise, if you are going to use it as a national instrument.

A. Not with any justice to the Canadian Pacific.

Q. No. And I think you suggested that good business for Canada was good business for the Canadian Pacific. But I suppose there can come a point where the interests of the two might conflict, so that what would be good business for the Canadian Pacific might not possibly be good business for the country.

A. Well, if it has to do with the general prosperity of the country, I would doubt it.

Q. I was thinking of the affect on a particular

region that might be one of the difficulties.

A. It depends on whether an unfair burden is being thrown on the Canadian Pacific to promote that prosperity.

Q. I take it also Mr. Walker that your view is that the Canadian Pacific cannot be maintained as a free enterprise in any other way than to make some provision which will enable the Canadian Pacific to receive sufficient revenue from freight rates to pay substantial dividends on its common stock.

A. I prefer to say "to maintain its credit", and I think that involves the payment of reasonable dividends on its ordinary stock.

Q. What would you say would be a reasonable dividend on the stock of the Canadian Pacific today?

A. Today?

Q. Yes?

A. Oh, a reasonable dividend is what we can pay. Today railway enterprise is contributing nothing by way of dividends.

Q. No. Is my question not clear? I asked you what you consider would be a reasonable dividend on the common stock of the Canadian Pacific today?

MR. CARSON: Out of rail earnings, you mean?

MR. COVERT: Yes.

A. Well, I would say that if present costs of operation are likely to continue indefinitely, as to which no one knows, we would have to earn about 7% to restore our stock to marketable value.

Q. Well, that is what I wanted to find out, whether you feel that freight rates should be sufficient to enable you to pay somewhere in the vicinity of 7% on your common stock?

A. I think so. But that does not yield 7% to the shareholder, you understand, because the real value, the

money value of our common stock is about \$31, not \$25.

Q. You were talking about the 7% on par?

A. Yes.

Q. Which I think is about \$25 today?

A. The par value is \$25, but it represents in subscribed capital at least \$31.

Q. That is due to the premium at which it was sold?

A. Yes.

Q. Now, on that basis, perhaps I should clear this up. You do not suggest that you should always be able to pay that, I suppose?

A. We do not suggest that we should always be able to pay anything. That is what I meant by the statement in our brief: That we looked for no guarantee against financial risk, but with the economy of the country at its highest level in our history, we think it unfair that we should be unable to earn any dividends at all on our common stock in our railway enterprise.

Q. That is, in good times you should be able to pay that, and that freight rates should be set so that you should be able to pay it?

A. Yes, precisely.

Q. My understanding is that your view is that the Canadian Pacific is, and must be, prepared to take its chance, the same as any other business in other times.

A. Unquestionably, as we had to do before.

Q. And your view is that since every other company has been able to increase the price of its product or the price that it receives for the service that it performs, nevertheless you say you have not been able to keep up with rest. And incidentally the price increases which have taken place have almost universally been in the fields in which we have to buy the largest quantities

of materials, steel, coal, and lumber.

Q. Now in the brief of the Canadian Pacific I think it is indicated that it should have a rate basis determined at approximately \$1 billion, is that correct?

MR. EVANS: We said we had proved a rate base of that amount. It changes every year.

MR. COVERT: What I wanted to know was whether the Canadian Pacific was suggesting to this Commission -

MR. FRAWLEY: Might I interrupt to say that we of the provinces challenge the statement which Mr. Evans just made: That he proved before the Board of Transport Commissioners that he had a rate base of \$1 million and one. I shall say no more than that. He said "We had proved".

MR. EVANS: I did and I do.

MR. FRAWLEY: I say that he did not.

MR. SMITH: I join in the challenge, Mr. Chairman.

THE CHAIRMAN: We are not going to hear the argument over again, anyhow.

MR. COVERT: Q. What I wanted to find out was whether or not the Canadian Pacific was suggesting that this Commission should recommend that in future a rate base should be determined and that this should be done by some body such as the Board of Transport Commissioners, and that body would also determine the rate of return on that rate base. Is the Canadian Pacific recommending that to this Commission?

A. Yes, but not with reference to the payment of any specific dividend on its stock.

Q. Oh no!; I have left the dividend amount out. But the Canadian Pacific does make that recommendation?

A. Yes, but not that this Commission should fix a rate.

Q. You are not asking us to find the rate base or a rate of return, Mr. Walker; and I take it that the reason is that once you did establish a rate base, as Mr. Evans says, it changes every year by the effect of depreciation on the one hand and additions on the other. That I suppose would perhaps make the question easier, the question of freight rate or revenue requirements easier in applications before the Board of Transport Commissioners, once that principle was established?

A. Well, I think the general freight rate investigation which is now pending will probably do more than anything else to iron out these territorial differences. We are all eager to see them eliminated. We are just as anxious as the provinces. But I do not necessarily think that it follows that if you adopt the principle of fair return you are going to eliminate any question of territorial grievances.

Q. I was not thinking perhaps so much of territorial grievances as I was: That once you had established a rate base and a rate of return which would give you the right to earn so much money, the next thing would be to fit the rates in to provide that amount of money.

A. Yes.

Q. I say that once you had established that principle, would it not make it much easier in future rate applications?

A. You mean applications for horizontal increases or reductions?

Q. Yes.

A. I should think it might, yes, facilitate it very greatly.

Q. Now the next thing I wanted to ask you is: I believe you did say it would probably be impossible to sell the common stock in Canada today, that is, in the

Canadian Pacific?

A At its present price?

Q. Well, I did not add that there are difficulties in the way, I understand, of that now; but I propose to ask you this: Assuming that you did not have the difficulty of having fixed par value of \$25 per share - and I understand that the \$17 or approximately that for which the stock is selling today gives you some difficulty in view of the par value of your shares. But assuming that you did not have those difficulties, any difficulty of that kind, do you think that the Canadian Pacific could raise money by the sale of its common stock in Canada today?

A. I take it what you mean is that if our stock was of no par value, and was presently selling at \$17-

Q. Yes.

A. We might sell it, but we would have to sell it at a very much lower price than a man could buy it for in the open market, obviously.

Q. And by selling it lower than the market value, that would dilute equality and would also cause some concern to the existing shareholders?

A. That is why they would be willing to pay a much lower price for it, if they bought it at all.

Q. From the point of view of business, from the sale of common stock, there is that possibility at the present time so far as the Canadian Pacific is concerned?

A. Yes. Under present conditions we cannot sell our shares.

Q. Would that possibility be improved if you were able to get a return of 7%, if they were paying a dividend of 7%?

A. I have not the least doubt about it, that it would.

Q That would enable you to finance, from the sale of stock, a portion of your requirements, I mean from the sale of your common stock?

A. Yes.

Q. Which you consider to be desirable?

A. I consider our common stock to be desirable?

Q. No. You consider financing through the sale of common stock to be desirable.

A. Oh! , of course.

Q. I am assuming what perhaps you expressed the other day was Utopia if you could get a rate of let us say 7% on your common stock.

A. No. What I described as Utopia was if we might build up some cash reserves from year to year to provide for our capital requirements.

Q. I was giving you a new Utopia.

A. That's fine. It reminds me of Henry George who said that he was determined to save 5¢ a day even if he had to borrow it.

Q. If you did reach that point, I wanted to ask you this, and perhaps not only with respect to the sale of common stock: Would the Canadian Pacific be able to sell common stock or other stock or bonds in Canada? That is, was there a large enough market to meet the Canadian Pacific's requirements, or would you have to look elsewhere?

A. I think a very large part of our stock would be taken up in Canada if it were selling at a premium so as to induce any investor anywhere to buy it.

Q. What I was trying to find out was whether or not the requirements for the Canadian Pacific plans for the future, the money requirements, whether that money can be obtained in Canada or whether you would have to go, let us say, to the United States.

A. We have not the slightest difficulty, for example, in raising \$15 million or \$20 million when we need it, on the securities of our equipment trusts, right in Canada.

COMMISSIONER INNIS: Q. I was wondering if you would care to add the Canadian National's capital requirements as well in your question, or whether Mr. Walker would comment on that general situation.

(Page 13640 follows)

---(Recess).

MR COVERT: I think, Mr. Walker, we were discussing the possibilities of financing the C.P.R.'s requirements by the sale of securities in Canada, and Dr. Innis mentioned at the same time to include with that the sale of securities to finance the C.N.R.'s requirements.

A. In Canada?

Q. Yes.

A. Well, I do not know, but I would think they would be very largely gobbled up in Canada. I know we think they are good enough to put in our pension fund.

Q. For example, I think, if I remember correctly, your brief suggests that over a period of years you have plans that will involve quite large expenditures?

A. Very large.

Q. Now, under present conditions I assume that that would mostly have to be raised by the issue of long-term bonds?

A. Yes.

Q. And you would anticipate no difficulty in selling them in Canada?

A. Not in reasonable amounts, but if we started to finance the programme that was outlined in our submission and in the evidence that was given before the Transport Board as to our requirements, we would very soon dry up the market, not only in Canada but in the United States, because our credit would not stand it. You cannot go on selling bonds indefinitely, you know, unless you are in the position of earning two or three times your fixed charges. As long as you are in that happy position you can go on borrowing money indefinitely, but we would not.

Q. Your point yesterday, I believe, Mr. Walker, was that if these borrowings had to be by way of bonds, which

increased your fixed charges, that was perhaps a dangerous thing to do, and that was one of the reasons financing at least partially through the sale of common stock was desirable?

A. Exactly. That was the reason why we made such frantic efforts in the war years to pay off our funded debt, because at that time our fixed charges had grown to very dangerous proportions, and they would soon be in the same dangerous proportions if we started to finance a very large construction programme by the issue of bonds, whether they were long-term or short-term.

Q. Now, if both you and the C.N.R. did proceed on a programme of expansion, as has been suggested in your brief---

MR CARSON: It is not expansion, it is improvements.

MR COVERT: Q. Well, improvements and so on; I think it amounts to somewhere in the vicinity of \$80 million a year in the case of the C.P.?

A. Yes, but that is not expansion.

Q. No; improvements.

A. It is very largely the restoration of worn-out equipment which during the depression we had not money to replace, and which during the war we could not get the materials to replace.

Q. I am sorry I used the word "expansion", Mr. Walker. All I am trying to get at is the money requirements.

A. Yes.

Q. And I wanted to find out if you thought, bearing in mind Dr. Innis' question too, that if both railways did this, if you thought the Canadian market could buy securities of both of the railways sufficient to enable

you to do that?

A. I think so.

COMMISSIONER INNIS: Q. You do not think you would be embarrassed by a discount rate on Canadian dollars and so on, or that you would have no fear of that happening and would consequently be able to finance yourselves on the Canadian market?

A. Well, I would hope so, sir. I am really not an economist.

COMMISSIONER INNIS: Perhaps it is not fair to ask you that question.

MR EVANS: Mr. Northey Jones, as a matter of fact, gave some evidence on that very subject in the 20% Case. He explored that question to some extent, and the extent to which borrowings and stock should be the medium of this financing, and he did discuss the American and Canadian markets. There was evidence, too, that the Canadian market would be a little more costly than the American market.

THE WITNESS: Other large utilities -- I would not like to name them specifically -- have recently financed thirty and forty million dollars expenditures in Canada. It is all a matter of the assurance of the investor that the industry is on a safe margin of earnings, which must be a very substantial margin over the fixed charges themselves, otherwise he loses confidence in the soundness of the investment.

MR COVERT: Q. Now, Mr. Walker, just one more question. Do you know whether or not any of the American railways, class 1 railways, have been financing through the sale of common stock in recent years?

A. I could not be sure, but it seems to me that the Chesapeake and Ohio put out a capital stock issue not so

Mr.

extent to which borrowings in

this financial year

markets. There is no doubt that

market would be

an market.

the witness: Other lines

the other aspect of the

in the

the like to make

the witness: Mr. White

the witness: Mr. White

the witness: Mr. White

the witness: Mr. White

the witness: Mr. White

long ago.

Q. Now, there is just one question, Mr. Walker, on the question of wages. I just wanted to ask you whether or not you felt that the machinery for handling present wage disputes is satisfactory?

THE CHAIRMAN: For handling what?

MR COVERT: Wage disputes.

THE CHAIRMAN: Pardon me; would you tell me what you mean by the machinery?

MR COVERT: That is, the machinery, Mr. Chairman, provided by the Dominion legislation, the Industrial Disputes Investigation Act.

THE WITNESS: Well, I think the machinery is perhaps as good as could be devised. I do not know any better at the moment. But one thing that I think has always been lacking is that no one representing the public interest is ever heard. We had an application which led either to the 6% Case or the ten-cent case, I cannot remember which, in which a thoroughly well qualified gentleman appeared before the Board and they refused to hear him, and he appeared solely in the public interest to illustrate what the effect of this increase would be on the general economy, and particularly on the transportation problem.

Q. Then, Mr. Walker, may I put it to you---

THE CHAIRMAN: Q. Pardon me; did he represent any organization?

A. No.

Q. Just a citizen?

A. Just a citizen, but a thoroughly well qualified citizen.

Q. When you say they refused to hear him, do you mean the Conciliation Board?

A. No; it was the National War Labour Board at that

time, sir.

MR FRAWLEY: Q. You don't mind telling us who that was, Mr. Walker, do you?

A. No; it was Professor McDougall of Queen's University.

MR COVERT: Q. Mr. Walker, do you think, then, that someone should be appointed to act on behalf of the public at these conciliation hearings?

A. Well, I don't know that anyone should be appointed, but I see no reason why anyone who expects to be affected by a wage increase should not be heard. I do not know why the provinces, which protest against the freight rate increases necessitated by these wage increases, should not be active in taking an interest in determining the rates of wages.

Q. That would mean, I suppose, that the representatives of labour would be dealing with someone else rather than the employer?

A. Oh, well, we have got past the stage of negotiation now. I am thinking of a hearing before some tribunal.

Q. Now, would that logically extend to all industry or would it just be the railways, because there are so many employees involved?

A. Well, I dare say that is a question for a sociologist.

Q. Now, Mr. Walker, I wanted to put this question to you: In your opinion is there any possibility of keeping expenses down that the railways have not already adopted? Before you answer that, I wanted to perhaps suggest some of the things, such as abandonment of lines, co-operation between the two railways, possibilities of cutting down passenger services, and I had particularly in mind as to whether or not you thought that there should be any addi-

tional legislation or changes in existing legislation with respect to such matters as the cutting down of passenger services and so on, because I think you indicated that there were a good many times that the railways had applied and they had not obtained permission?

A. Well, I cannot think of any legislative change that is necessary, Mr. Covert. It does seem to me that there might be some change in the attitude of the administrative tribunal, but I do not think you can legislate for things of that character. You must depend on the sound wisdom and judgment of the administrative tribunal.

Q. In other words, the railways are stopped from bringing about economies that they think are desirable?

A. Well, we must be just; we must realize that when we have been refused leave to abandon a service it is because the Board of Transport Commissioners felt that the saving involved too great a sacrifice of the public interest. They recognize that some services do not pay, but nevertheless the public must be served.

Q. And you think, then, that the railways should be prepared to abide by that decision and accept that situation whereby, as I say, you may be stopped from bringing about the economies?

A. I do not see any escape from it.

Q. Now, tell me, Mr. Walker, has the C.P.R. considered the possibility of perhaps abandoning some of the businesses which they are now operating? I have in mind particularly hotels when they have not been paying, as to whether or not they should be like the bank, and decide to take their capital loss now rather than continue to take operating losses over a period of years?

A. Well, I do not know any of our hotels that are in such a position that we would even consider abandoning

them; and, besides, that is a matter of the judgment of management. It has no bearing whatever on the railway situation, because if we lose money in hotels or any other operation outside our railway operation, the losses are borne by the shareholders, and if we thought that a particular hotel was losing money and had no prospect of making money we would certainly abandon its operation.

Q. What you are saying is that that is primarily a matter of the business judgment of the management of the railways, that it does not affect the railway problem in any way?

A. I said it was a matter of the business judgment of the company.

Q. Of the company, yes.

A. I draw a distinction between the railway and the company.

Q. And it does not affect the railway situation at all as such?

A. Not at all, except that the hotels are a very distinct traffic producer for the railway.

Q. Now, I just wanted to ask you one question on this point. I think an article was read to you this morning by Mr. Campbell suggesting that the railways may be pricing themselves out of business in the United States. My understanding is that your view is that that is not the situation in Canada, that the railways have nowhere near reached, I think was the phrase you used---

A. That is my view, yes.

Q. ---a rate level which would price the railways out of business?

A. Quite so.

(Page 13648 follows)

Q. Now then, I want to take up with you the question of the Railways extending their operations into the field of trucking, motor transport. Now, before you answer this question I would like you to consider it from this point of view. Now, as I understand it, you say that on the short-haul traffic as far as the railways are concerned, under existing conditions at least, the future is anything but bright and that may be by virtue of jurisdictional problems. Mr. Carson has suggested that perhaps I should deal with that question with Mr. Crump and I am perfectly willing to do that.

A. He knows a great deal more about it than I do.

Q. I also had a question on unused capacity. Perhaps I should take that up with another witness?

A. Well, there again Mr. Crump is very much better qualified to speak than I am.

Q. Then, Mr. Walker, I think yesterday someone asked you about the Bureau of Economics of the Board of Transport Commissioners, and I think you suggested -

A. I was speaking about the Dominion Bureau of Statistics, I think.

MR. CARSON: Department of Transport.

A. Yes. I did not have in mind the economics branch of the Board of Transport Commissioners; I had the governmental department in mind.

MR. COVERT: I am sorry. Then, Mr. Walker, I did want to take up with you the question of the discussion of appeals from the Board of Transport Commissioners to the Privy Council, and it seemed to me that your answer indicated that there is no field at all for the interference of government or politics and you went on to point out, I think, that for a good many years when repeated appeals

were made to the Privy Council from decisions of the Board of Railway Commissioners that on every occasion without exception until the recent appeals from the decision in the 21 Percent Case, the Governor-in-Council dealt with the appeals by saying that the Board had been set up to deal with these problems and it was amply equipped with experts and as a result of years of experience they know how these problems should be dealt with and that it was quite unsound for a committee of the Cabinet to interfere?

A. I did recall afterwards one other exception to that where in 1920, I think it was, the Privy Council sent back a case to the Board for reconsideration because they were of opinion that the Board had paid regard to the operating results of the Canadian National Railways and they were of opinion that they should have confined their attention to the operating results of the Canadian Pacific, and they sent it back to the Board and the Board delivered a second judgment in which they said that they had not paid any attention to the Canadian National figures but had based their finding on the Canadian Pacific figures. There may be other exceptions, but I do not recall any.

Q. I think there are. I was not dealing with that. As a matter of fact, my understanding is on information which I collected, for the period 1904 to December of 1948 I think there were 54 appeals to the Governor-in-Council, 27 of which had been dismissed, 12 referred back, 2 withdrawn, 5 abandoned and there had been only 3 allowed and I think there were 5 that there was no ruling on.

THE CHAIRMAN: How many referred back?

MR. COVERT: Referred back, 12. But it seemed that certainly only 3 appeals or 6% over a period of some 44 or 45 years, had been allowed - only 3 appeals. Now, this would, I suggest, seem to indicate

that generally speaking the provisions for appeals to the Governor-in-Council had not been abused in the past?

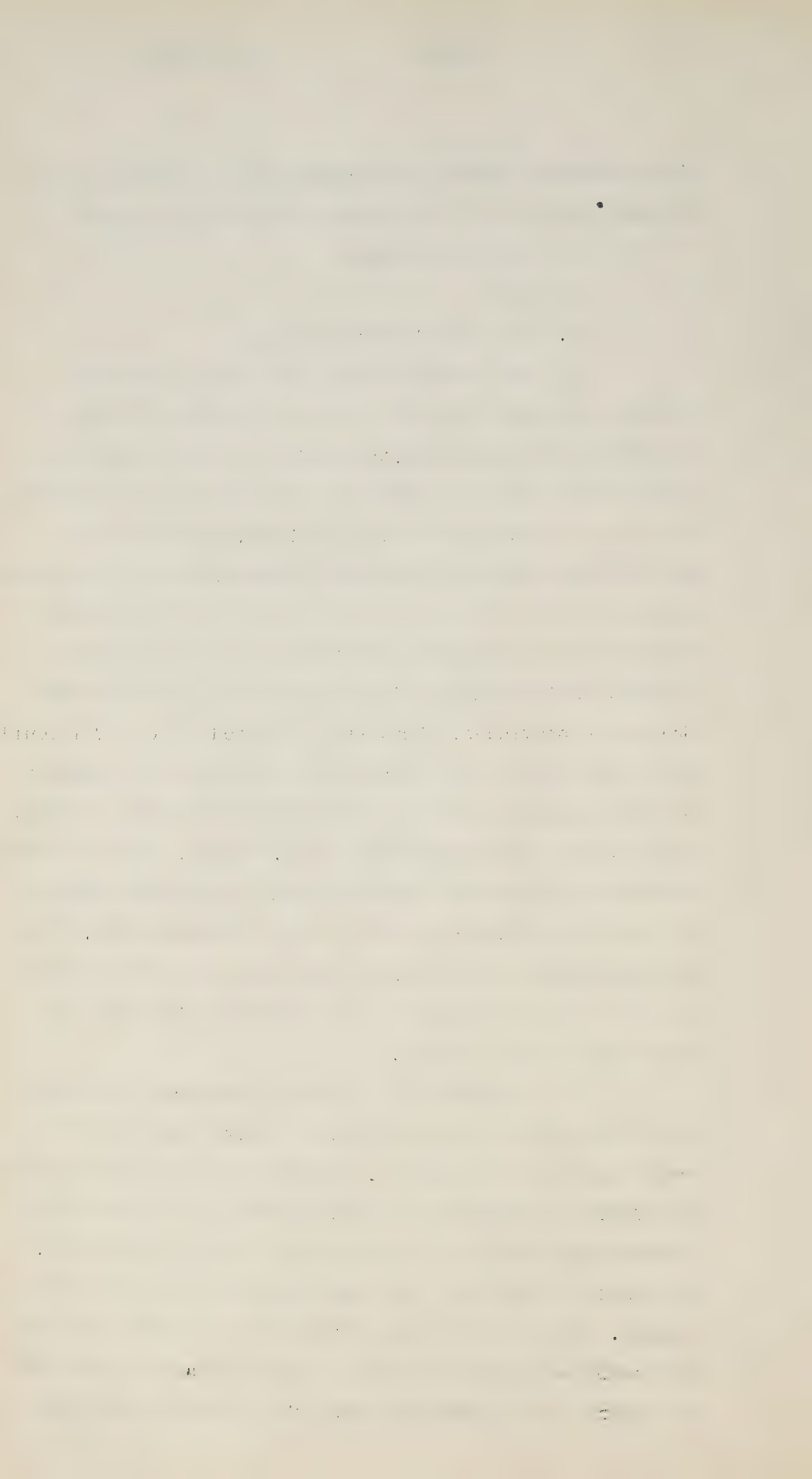
A. Not been abused?

Q. Yes.

A. No, I don't think they had.

Q. And I suggest also, Mr. Walker, that the results generally speaking, must be regarded as having been fairly satisfactory, the position of the Governor-in-Council when they have adopted a view which you suggested. As I say, you went on to say, I think, that this rule was followed universally without exception until the recent decision in the 21 Percent Case and you said you did not hesitate to say that the attitude of the government was largely influenced by political pressure, pressure from the seven provinces. Now, what I wanted to do, if I could, was to get down to the fundamental position with respect to those appeals and that is by going back prior to 1903, prior to the recommendations of Mr. McLean. When Mr. McLean was asked to make his investigation, he gave the reasons for setting up the Board of Railroad Commissioners. Now, the government at that time, when they did set that Board up, did reserve an appeal to the Governor-in-Council or Parliament, I should say.

A. I think it is a little inaccurate, you know, and I have always thought it was a little inaccurate to refer to it as "an appeal". What the Section says is that the Governor-in-Council may at any time in his discretion either upon petition of any party or on his own motion. Now that, to my mind, is a very different thing from an appeal. In the early days I think the procedure was for the petitioner merely to file a petition setting out what he regarded as a departure from the sound principle and



on that the Governor-in-Council acted or did not act. Now, it has been regarded as an appeal to the Governor-in-Council and I do not think that that was ever the intention. One may petition the Crown for a lot of things, but an appeal is a thing which contemplates the representation of the parties and a formal argument and that sort of thing, and I do not think the use of the word "petition" there has anything of that kind in contemplation.

Q. The Governor-in-Council was given power to vary or rescind any order, decision, rule or regulation of the Board?

A. Of his own motion or on petition which does not mean, in my submission, an appeal.

Q. Well, I do not want to quarrel with you over the use of the word "appeal", Mr. Walker. That is not the point. Let us say that Parliament left open a means whereby a petitioner could go to the Governor-in-Council and seek to and , perhaps be successful in having the order of the Board altered, varied, repealed or so on.

THE CHAIRMAN: Do not the same parties appear before the Governor-in-Council as appeared before the Board?

MR. COVERT: My understanding is, for instance, they did sir, in the 21 Percent Case.

THE WITNESS: Yes, they did, sir, but there were also very many representations made to the Governor-in-Council at which we were not represented and of which we had no notice.

THE CHAIRMAN: Asking the government to vary or rescind the order?

A. That is a matter which depends on the material Mr. Frawley may or may not file, I do not know. My impression was that they were in effect urging a review

of the Board's decisions. It may have included an application for a general freight rate investigation or the appointment of a Royal Commission or something else.

MR. CARSON: And there were a number of telegrams which came in from Provincial Premiers to the Prime Minister of Canada, the Minister of Transport and so on.

THE CHAIRMAN: Asking for what?

MR. CARSON: One thing they asked for was to suspend the increase - not to put it into effect.

THE CHAIRMAN: Since the government may^{not}/do all these things upon its own motion, they must get the notion to do it by someone suggesting it to them.

MR. CARSON: That is one of the things we see wrong with it.

THE CHAIRMAN: Yes, I have listened to your objection. I would assume, though, in a case of that sort, before doing any varying or rescinding, they would give notice to all parties concerned to show cause.

MR. EVANS: They do, they notify the parties and the parties appear, but that is^{with}/respect, not an answer to our difficulty that we have got a tribunal appointed to hear evidence and then we have a very short tribunal reviewing transcript which is quite beyond the possibility of going into it at length, before a tribunal which has no experience and which deals with these things in the matter of a day or two.

MR. COVERT: What I was coming to, Mr. Chairman -

THE CHAIRMAN: Pardon me a moment. There is a question which arises there. Are these so-called appeals ever proceeded with as if they were re-hearings?

THE WITNESS: Oh no, sir. This freight rate inquiry lasted eighteen months and had a record consisting of nearly

20,000 pages. Now, the Privy Council heard argument and dealt with it. The argument lasted, I think, one and a half or two days.

MR. EVANS: Two days. Of course, there was no possibility at all of really dealing with that in that time; it would be physically impossible to cover it.

THE WITNESS: And as I suggested yesterday, time after time the Privy Council itself in dozens of these appeals has pointed out that it is not equipped to deal with the merits of any of these applications.

THE CHAIRMAN: What I have in mind now, is this; if the appeal, properly so-called, raises a question of law, then you go to the Supreme Court. Is not that so?

A. Yes sir - or jurisdiction.

Q. Therefore, it seems to me that Section 52 (1) which says what the Governor-in-Council may do, does not assume that the matter brought before the Governor-in-Council will be a matter of law at all?

A. Or jurisdiction.

Q. Therefore, they must be questions of fact?

A. Yes sir.

MR. EVANS: It encompasses both because a party who exercises his right to petition, actually can have a result which is just as good as if he had a question of law or a question of fact, or both combined, because he can persuade, if he can, the Governor-in-Council to vary or rescind an order, and that being so they can do it without giving any reason.

THE CHAIRMAN: Or without hearing any evidence?

MR. EVANS: Yes.

THE CHAIRMAN: I think I should take this opportunity of saying something that I may forget to say before

we disband. Counsel for various of the Provinces have been submitting draft amendments to us for the Railway Act or perhaps some other legislation. I want to say if Counsel for the Railways have any amendments to suggest, I would like to have them drafted too before we meet again.

MR. EVANS: Having in mind what your lordship said the other day, I have begun to look at our Brief to see what cases contains specific recommendations along that line.

(Page 13658 follows)

There are some that are simply a matter of repeal of subsections, and that I should suppose would require no specific draft bill, but there are others that we intend, if your lordship desires it, to put before you before the case closes.

THE CHAIRMAN: All right.

MR. FRAWLEY: I would hope considerably before the case closes.

THE CHAIRMAN: I said when we meet again in January, the 30th of January. By that time we should like to have whatever proposals are intended to be submitted to us.

MR. COVERT: Q. Mr. Walker, what I was going to suggest to you is this, that a sudden change --

THE CHAIRMAN: Pardon me; of course Mr. Frawley will understand even after that there may be occasion to remodel them.

MR. EVANS: May I suggest one of the reasons we are not so quick to put them in is that we do not want anything to happen to ours such as happened to Mr. Frawley's.

MR. FRAWLEY: You are far too timid; you should get your feet wet.

MR. COVERT: Q. Having had time to consider this question, what I was going to suggest was that the change was so great, the taking of the regulation away from a committee of the Cabinet and placing it in the hands of the Board of Transport Commissioners, an administrative and judicial tribunal, was so great that perhaps Parliament thought it wise to retain a measure of protection or leave open an avenue of petition or appeal, whatever you want to call it, from that Board. In other words, Parliament was directing that it be given

to the Railway Committee because they believed they should keep some control over it in view of the importance of the railways to the country. I wanted your views as to whether or not you thought that situation had changed?

A. No, I do not think the situation has changed, but I think the provision in the statute greatly diminishes the stature of the Board of Transport Commissioners because, as I say, the Privy Council have so often reaffirmed that the Board is capable, from their own long experience and from the availability of experts, to decide questions that are within their jurisdiction, and that the Privy Council is not. It seems to me that is a futile sort of proceeding.

Q. Mr. Walker, I want to ask you this. In the 21 per cent case, to which you have referred, did the Privy Council not simply refer it back to the Board of Transport Commissioners?

A. No; they expressed several observations as to the manner --

Q. But the Board of Transport Commissioners was left in the position that they could say: We have reviewed this and we still think it should be 21 per cent?

A. Yes.

COMMISSIONER ANGUS: Q. Am I right in thinking that you link this question of the right of the Governor in Council to vary or rescind with the question of the ability of the Canadian Pacific Railway Company to raise capital by the sale of common stock?

A. No, sir.

Q. And that you consider your prospects of selling common stock better if there is a sort of assurance that future rate cases will not be disturbed

by variations or rescinding?

A. No, I do not associate the two at all. I am talking about general principles.

COMMISSIONER INNIS: Q. Following up Mr. Covert's argument, is there any danger that the Board, having comparatively little to do over a long period, and having a great deal to do at certain stages, particularly the stages in which there are economic disturbances, may become rather rusty? There was this long period of nearly twenty years in which they had very little to do. Is there a danger of them becoming rusty with the result that their decisions or judgments perhaps may be less satisfactory than they would otherwise be? I think this Commission has had the advantage of a very considerable training from people who have been through the various rate cases. I am wondering whether that has prevailed up to this time?

A. Well, their judgments are all recorded from the formation of the Commission in 1903. Principles have been laid down by eminent men. They are surrounded with experts who are familiar with these decisions. There is little excuse for anyone becoming rusty who is eager for knowledge in the discharge of his responsibilities.

Q. If you look over the history of the Board, the personnel varies greatly as to capacity, ability and numbers, and also as to the amount of work handled from year to year?

A. Yes. Of course in a year when they have either a general freight rate investigation or a rate increase case such as these two, they are a great deal busier than they normally are, but they can and do sit as panels. I mean to say, our first case was heard by the

whole Board and in the second case it was disposed of by the Chief Commissioner, the Assistant Chief, and one other.

COMMISSIONER INNIS: I am sorry to interrupt you, Mr. Covert.

THE WITNESS: That is possible, of course; they can divide up the work.

COMMISSIONER ANGUS: Q. Is it possible in some cases that major questions of policy emerge that are rather different from the questions in ordinary routine cases, and that in such instances the powers of the Governor in Council might have more justification than in others?

A. Well, I cannot readily think of any, sir.

MR. COVERT: Q. There are just two more points that I have to take up, and I should like to be able to finish so that we will not have to call Mr. Walker back for another day. The first one was in connection with the matter that Dr. Angus raised yesterday as to the revision of the Canadian National Railways capital structure. My understanding, Mr. Walker, was that you suggested that any recommendation made by this Commission should be conditional because first there should be a raising of the level of rates to see what the C.N.R. could do without changing its capital structure. I wanted to suggest this to you. I suppose that would mean a pretty effective postponement of any revision of the capital structure of the C.N.R. for some time because there would be the general freight rates investigation, and then the establishment of a new rate level and a period of waiting in which to find out how that was going to affect the C.N.R.

A. With the utmost respect for this Commission, my thought about that is that the Commission will recommend and some parliamentary committee will ultimately decide, or Parliament itself, and while the Commission may or may not in its wisdom suggest a revision of the capital structure, I suggest that certainly the actual revision of the structure should not be undertaken until a proper level of railway rates is established. Even as we stand at this moment, the Chief Commissioner has only deferred our application for the 20 per cent increase. He gave us 8 per cent and said that some time in the future he would get around to considering the rest of our application.

Q. Now then, the last point I have to take up with you, Mr. Walker, arose out of some examination this morning by Mr. Campbell. You called to his attention the fact that there was a difference between amalgamation and unification. The matter was not pursued any further, and I just wondered if you thought there were still possibilities of savings by unification of management as distinct from amalgamation?

A. I don't know that I could answer that question without a very great deal of study, Mr. Covert.

Q. I suppose it would be the management of the C.P.R. --

A. Amalgamation, you know, has been forbidden in statute after statute.

Q. I was not proposing to ask about amalgamation at all, Mr. Walker. It was just the question of unification. I wanted to find out whether or not the management of the C.P.R. had given any consideration to that in recent years?

A. In recent years no, and I think under the greatly

changed economic conditions that exist in Canada today, for anyone to advocate unification would involve a profound study of the whole situation.

MR. COVERT: That is all I have.

COMMISSIONER INNIS: Q. You mentioned this morning the competition between American roads for passenger traffic, the development of luxury trains, and so on.

A. Yes, sir.

Q. Has that meant losses to Canadian roads because of passengers travelling to the Pacific coast on American roads?

A. I could not say to what extent, but unquestionably it has. I have personal friends who travel east and west on the Great Northern luxury train, for example. I don't know how extensive it is or what it would represent in money, but there is some competition.

Q. It does represent competition?

A. Yes.

MR. O'DONNELL: At this point, Mr. Chairman, I should like to say that, while we do not wish to detain Mr. Walker at all, it is by reason of our having been advised that an opportunity will be provided to discuss any points which Mr. Walker raised with the various witnesses of the C.P.R. who are to follow him. During the course of their testimony we might review whatever we may deem advisable. Our own officers in due course in any event, will present our own particular views.

RE-EXAMINATION BY MR. CARSON:

Q. Mr. Walker, in your cross-examination yesterday by Mr. Shepard, at page 13410, he was asking you about

a sentence in paragraph 1 of our submission, and it is quoted there. It reads:

"The essential problem can, in our view, be simply stated, that is to say: How the people of Canada can be furnished adequate and modern transportation services at the lowest possible cost to the nation and without unnecessary or uneconomic consumption of labour and materials."

Mr. Shepard went on to divide that sentence into what he called three elements, the provision of adequate and modern transportation services named first, and then secondly the lowest possible cost for providing those services, and thirdly the matter of unnecessary and uneconomic consumption of labour and materials. Then I think he was putting a question to you as to how the three elements should be left to be determined, and as to the first two you referred to the Board of Transport Commissioners, and you suggested that the third might to some extent be under the control of the company. I was wondering whether you intended in that answer to rule out in any way the role of management with respect to the first two?

A. Well, I did not, Mr. Carson, because the statute imposes on the railway company the duty at all times to maintain suitable and sufficient facilities for the handling of all traffic on the railway. In the first instance that is the responsibility of management, and as I think I said yesterday we would not concede for a moment that the Board of Transport Commissioners should dictate to us as to what facilities we should provide. That is a problem of management. They might say at any time, as in a given instance, that we were not maintaining suitable and sufficient facilities, but it is the

responsibility of management to decide what the public service needs in the way of train service, equipment, and so on, and unless and until we fail to provide adequate and suitable facilities it seems to me the Board has no ground for interference.

Q. Then as to the second matter, the matter of the lowest possible cost for providing these services, I would assume from what you have said that you regard that as a matter for management as well?

A. Well, yes.

Q. Then at page 13419, again under Mr. Shepard's questioning, he was rather putting ^{it} that there was no objection to the Board of Transport Commissioners controlling your standard of service and you said:

"I do not think I said that in just the way you put it."

What I wanted to ask you is whether you drew any distinction between the Board controlling standards and regulating standards of service?

A. There is; I may have spoken hastily. I do not think the Board of Transport Commissioners have any more right to control our standards than they have to direct us to put on streamlined trains, as I say, but they have a right to regulate us in the discharge of our duty to maintain suitable and sufficient facilities for the carriage of the traffic on the railway, whether it is passenger or freight.

THE CHAIRMAN: Q. How would they find out whether you are fulfilling that obligation?

A. Oh, they have inspectors on the road all the time.

Q. And what standards do they apply, or do you furnish the standards yourself?

A. I suppose we do; both railways furnish the

standards.

MR. EVANS: There are many rules and regulations by the different branches of the Board's staff.

THE WITNESS: The matter of wooden coaches, for example, is one on which the Board have very properly urged us; they have not ordered us to replace them within a certain length of time because they knew that was impossible, but they have supervised the replacement of wooden coaches with steel coaches from time to time, and both railways are anxious to get rid of this old equipment as fast as they can, but it has been physically impossible to do it.

THE CHAIRMAN: Q. If it were physically possible to replace all wooden coaches by steel coaches now, would you say that the Board would not have the power to order you to do so under the present set-up?

A. I would say they would have power.

Q. A matter of safety, I suppose?

A. Exactly.

MR. CARSON: Q. You were asked this afternoon about the matter of a rate base and rate return by my friend, Mr. Covert, and I think the Chairman asked you whether the company had any suggestion to make as to a recommendation by the Commission. I know you did not have our brief in your hand at the time, but I think I might tell the Commission --

THE CHAIRMAN: All I suggested in that respect was that if you had any changes to suggest you might put them in the form of amendments to the present legislation.

MR. CARSON: I have that in mind, too, Mr. Chairman.

THE CHAIRMAN: Did I say something else?

MR. CARSON: I think you put it a little

differently to Mr. Walker, you asked him about that specific matter, whether there was any suggestion as to a recommendation by the Commission, and I know he did not have our brief at hand when he was asked the question. I was not intending to trouble him about it at the moment, but simply to draw the Commission's attention to page 64 of Part I of our brief in which our outline submission summarizes the position we take on that matter.

THE WITNESS: That is sections 42 to 45 inclusive of the outline submission.

MR. CARSON: Q. Yes.

A. I had no intention of departing from that.

Q. There is nothing I want to ask Mr. Walker about that, but I do want to call it to the Commission's attention while it is fresh in your mind. Perhaps it is enough if I read section 45.

"It is submitted that no amendment is necessary to the Railway Act of Canada to apply the principle of fixing general rate levels on the basis of a fair return on the investment in railway property used in transportation service. The determination of investment in such property and of the rate of return are matters which should properly be left to the Board of Transport Commissioners."

There is one further matter, Mr. Walker. In speaking about these appeals, I think Mr. Covert suggested that the appeal was not being abused. I was wondering whether in your judgment the fact that the appeal is sort of hovering over the heads of the Board all the time is a matter that is not considered advisable.

(Page 13670 follows)

A. Well, I think it must affect their judgment; certainly their morale.

MR FRAWLEY: Trial judges feel the same way, I suppose.

MR CARSON: Well, I don't know about that, Mr. Frawley. There is quite a difference, if I may suggest it.

THE CHAIRMAN: Fortunately, there are more appeals from trial judges.

MR CARSON: Q. When you referred to a citizen appearing before the National War Labour Board in the public interest, and Mr. Frawley asked you to name him and you mentioned Professor McDougall, there was a great deal of smiling went on at this end of the table, but may I take it---

MR FRAWLEY: Not at this end of the table; certainly not by the asker of the question.

MR CARSON: Well, I perhaps cannot identify the smilers.

Q. All I was going to say, quite seriously, Mr. Walker, was that Professor McDougall was not there at the instance of the Canadian Pacific?

A. Oh, certainly not.

Q. That is all, thank you.

A. He is a profound student of the subject, and he was interested as a member of the public; no connection whatsoever with the Canadian Pacific.

MR FRAWLEY: Mr. Chairman, before we adjourn, I take it the next witness is Mr. Crump, and I would ask, if Mr. Crump has any document to use when he is giving his evidence, any statement or any brief, that we should be furnished with that now, because, frankly, Mr. Walker came in with a brief, and I understand there were good reasons perhaps why that was not made available to us,

but it is pretty difficult to cross-examine on a brief that you see only when the witness goes into the box. I therefore say that if Mr. Crump has anything in the nature of a statement we should have it, or, if he has not, and is not going to have one, then I think Mr. Carson should direct us to those pages in the brief which he will discuss. Then we might---

THE CHAIRMAN: Well, perhaps Mr. Crump has learned it by heart.

MR FRAWLEY: Well, that may be.

MR CARSON: May I tell my friend that all I have under Mr. Crump's name at the moment, under "C" in my notebook, is "Crump", and I may have to work pretty late tonight to get anything ready for tomorrow.

MR FRAWLEY: Well, I simply say this seriously: If Mr. Crump goes into the box tomorrow with a written statement, then I think it is too bad that we will not have been furnished with that statement before he goes into the box.

THE CHAIRMAN: What is the fact, Mr. Carson? Is Mr. Crump coming in with a written statement?

MR CARSON: No, my lord, not as far as I know yet.

THE CHAIRMAN: Not as far as you know yet.

---The Commission adjourned at 4:53 p.m. until 10:30 a.m. on Wednesday, December 14, 1949.

A.R.

Canada

ROYAL COMMISSION
ON
TRANSPORTATION

EVIDENCE HEARD ON

DEC 14 1949

VOLUME

66

521206

23.4.51



Presented to
The Library
of the
University of Toronto
by

Professor H.A. Innis

ROYAL COMMISSION ON TRANSPORTATION

Index Page #84

Page

<u>NORRIS R. CRUMP Called. Examined by Mr. Carson.</u>	- -	13672
Cross examination by Mr. Brazier	- - - - -	13730
Cross examination by Mr. Shepard	- - - - -	13751
Noon adjournment	- - - - -	13761
<u>NORRIS R. CRUMP - Recalled. Cross examination by</u>		
<u>Mr. Shepard continued</u>	- - - - -	13762
Cross examined by Mr. Frawley	- - - - -	13795
Cross examination by Mr. Barry	- - - - -	13813
Examined by Mr. Covert	- - - - -	13821
Re-examined by Mr. Carson	- - - - -	13835

- - - - -

ROYAL COMMISSION ON TRANSPORTATION

OTTAWA, ONTARIO,
WEDNESDAY,
DECEMBER 14, 1949.

THE HONOURABLE W.F.A. TURGEON, K.C., LL.D. - CHAIRMAN

HAROLD ADAMS INNIS - - COMMISSIONER

HENRY FORBES ANGUS - - COMMISSIONER

G. R. Hunter,
Secretary.

P.L. Belcourt,
Asst. Secretary.

COUNSEL APPEARING:

F.M. Covert, K.C.	}	Royal Commission on Transportation
G.C. Desmarais, K.C.		
Hugh E. O'Donnell, K.C.	}	Canadian National Railways
H.C. Friel, K.C.		
C.F.H. Carson, K.C.	}	Canadian Pacific Railway
F.C.S. Evans, K.C.		
I.D. Sinclair		
K.D.M. Spence, K.C.		
Wilson E. McLean, K.C.	}	Province of Manitoba
C.D. Shepard		
M.A. MacPherson, K.C.		Province of Saskatchewan
J.J. Frawley, K.C.	}	Province of Alberta
H.G. Nolan, K.C.		
C.W. Brazier		Province of British Columbia
F.D. Smith, K.C.	}	Province of Nova Scotia; Transportation Commission of the Maritime Board of Trade
J. Paul Barry		Province of New Brunswick
F.R. Hume	}	Canadian Automotive Trans- portation Association
M.L. Rapoport		
R. Kerr	}	Board of Transport Commissioners
J.O.C. Campbell, K.C.	}	Province of Prince Edward Island

Wednesday, December 14th 1949.

MORNING SESSION

---- The Commission met at 10.30 a.m.

THE CHAIRMAN: Very well, Mr. Carson.

MR. CARSON: I call Mr. Norris R. Crump.

NORRIS: R. CRUMP CALLED

EXAMINED BY MR. CARSON

MR. CARSON: Q. Mr. Crump, what is your position with the Canadian Pacific Railway Company?

A. I am Vice-President.

Q. And what does your jurisdiction cover?

A. I am in charge of all rail lines and inland and coastal steamships of the Canadian Pacific.

Q. In order to shorten matters, instead of asking you questions, I shall put on the record, with the consent of my friends, your history.

You were born in Revelstoke, British Columbia on July 30, 1904. You received your primary education in Vancouver and in Revelstoke. You received your secondary education at night schools in Winnipeg. Then you attended Purdue University in Lafayette, Indiana, and obtained the degrees of Bachelor of Science in Mechanical Engineering in 1929, and the degree of M.E., that is, Mechanical Engineer in 1936. And you are a member of the Engineering Institute of Canada.

Your service with the Canadian Pacific commenced in June 1920, when you started as a labourer at Revelstoke, B.C. And then in September of that year, that is 1920, you became a Machinist Apprentice at Field, B.C. And in February 1922, you became a Machinist Apprentice at Revelstoke, B.C.

Then you sent ^{were} to Winnipeg in the same work, in May 1923. And during the years 1925 to 1929 you had leave

of absence from the Company in order to attend the University, that is, Purdue University. And then you returned, in the summer of 1928, while still at the University, and you worked from June to September as Transitman on Railway Construction at Swift Current, Saskatchewan.

From 1930 to 1936 you served as Roundhouse Foreman at Saskatoon, Saskatchewan, Lethbridge, Alberta, MacLeod, Alberta, Calgary, Alberta, Wilkie, Saskatchewan., and Moose Jaw, Saskatchewan.

From 1936 to 1939 you were Division Master Mechanic at Moose Jaw, Saskatchewan, and at Regina, Saskatchewan. In 1940 you were Chief Draughtsman, Western Lines, Winnipeg, Manitoba. From 1941 to 1942 you were Assistant Superintendent of Motive Power, Western Lines, with headquarters at Winnipeg, Manitoba.

In May 1942, you came to Montreal as Assistant to the Vice-President. In October 1943 you were appointed General Superintendent of the Ontario District, with headquarters at Toronto. In January 1946 you became General Manager, Eastern Lines with headquarters at Toronto. In January 1947 you became Vice-President and General Manager of Eastern Lines, still at Toronto. In August 1947, you became Vice-President of the Eastern Region, Toronto. In April 1948, you became Vice-President of all lines, with headquarters at Montreal. In February 1947 you were elected to the Board of Directors of the Company. And in May 1949, you were elected Vice-President of the Company and a member of the Executive Committee. Have I stated that correctly, Mr. Crump?

A That is correct.

Now then, yesterday, my friend Mr. Frawley, when cross-examining Mr. Walker at pages 13471 and 13472,

referred to the wage increase of 17¢ per hour that came into effect in July 1948, but which was made retroactive to March 1st, 1948. And Mr. Frawley suggested that he had been told it could have been settled at much less than 17¢ per hour, and went on to suggest that it could have been settled at 10¢ an hour rather than 17¢ an hour. Would you be good enough to tell the Commission something about the events which led to that wage increase?

A. The demands that Mr. Carson has spoken of are known in our circles as the 17¢ Increase Case. All of the railways in Canada first received these demands on November 20, 1947, at which time thirteen of the International Brotherhood Organizations submitted individually to us but to all at the same time requests for an increase of 35¢ an hour. Actually it should be known as the 35¢ Case because that was the original demand.

There were thirteen of the International Organizations involved and at the same time the Canadian Brotherhood of Railway Employees, which is a Canadian organization, also submitted demands upon the railways slightly different in character but essentially the same.

We carried on negotiations with these two groups separately, and they became known as the International Group of the C.B. of R.E. Group, that is, the Canadian Brotherhood of Railway Employees.

These were the groups with which we carried on negotiations in that case. The negotiations were conducted between the men and the railways, and we did not arrive at any satisfactory solution. And in accordance with the Canadian Labour Relations Act, if I am correct in the title of that regulation, the Minister of Labour was advised that we could not come to any amicable settlement.

(Page 13678 follows)

Consequently under date of January 6, 1948, conciliation officers were appointed by the Minister, and they in turn dealt with the railways and the two major groups of the men in an effort to bring about some solution of the problem. This was not possible, and they in turn reported to the Minister that no solution had been found, and consequently the Minister ^{appointed} boards of conciliation.

The boards of conciliation were under the same chairman, but with different memberships of the boards. These boards held hearings in Montreal. The hearings first commenced on March 10, 1948, and closed on April 2. The majority report of the boards was that an increase of 7 cents an hour in their opinion was justified. The minority report was 20 cents. Following that judgment the railways accepted the majority report of the boards of conciliation, that is, we signified our willingness to settle on the basis of an increase of 7 cents an hour. The men would not accept that majority report, and consequently a deadlock ensued. As a matter of fact, the men not only signified their unwillingness to accept the findings of the board, but they put out a strike vote, and our situation was deadlocked at that point.

Then a somewhat unusual procedure was followed, but the situation was exceedingly serious. Under date of May 27, 1948, the Minister of Labour proposed the reconvening of the boards to operate purely in a mediatory capacity.

Q. When was the result of the strike vote known?

A. The precise date --

Q. I do not care about the precise date; approximately at what stage did that become known?

A. It was on June 28 that the chairman of the

1. The first of these is the

second of these is the

3. The third of these is the

4. The fourth of these is the

5. The fifth of these is the

6. The sixth of these is the

7. The seventh of these is the

8. The eighth of these is the

9. The ninth of these is the

10. The tenth of these is the

11. The eleventh of these is the

12. The twelfth of these is the

13. The thirteenth of these is the

14. The fourteenth of these is the

15. The fifteenth of these is the

16. The sixteenth of these is the

17. The seventeenth of these is the

18. The eighteenth of these is the

19. The nineteenth of these is the

20. The twentieth of these is the

21. The twenty-first of these is the

22. The twenty-second of these is the

23. The twenty-third of these is the

negotiating committee informed the railways that a concerted and peaceful withdrawal from the service would take place on Thursday, July 15, 1948, at 6 a.m. Before we were informed of that the boards of conciliation had been reconvened to act in a mediatory capacity. Both the railways and the men had several meetings with the boards which were under the chairmanship of Mr. Justice Cameron. It was during those proceedings that the offers took place to which perhaps Mr. Frawley had reference, because it was during those negotiations carried on between the men and ourselves through the medium of the boards that the railways finally offered a maximum increase of 10 cents an hour. The counter offer of the men at that time was a reduction from 35 to 30 cents an hour. There we deadlocked.

The boards reported to the Minister that that was the situation, and that the boards could effect no further solution. As the date of withdrawal from service was drawing close, the Minister summoned both parties to Ottawa where numerous conferences were held, the first conference being held here on July 9. Negotiations were carried on from that time until July 14, the day before the railway strike was to take effect.

On the afternoon of July 14 a settlement was finally arrived at and the men were notified that the strike would not take place. Perhaps it would not be out of place to say at this point that the situation on July 14 was exceedingly serious. Whether it was generally realized in Canada how serious it was I am not sure, but we had already made our plans for a complete shutdown of the railway. We had many problems to consider.

THE CHAIRMAN: Q. Pardon me a moment; do you mean both railways?

A. Yes, both railways, in fact, all railways.

MR. CARSON: All Canadian railways.

THE WITNESS: We had a great many problems to consider, as you can imagine in a situation of that kind. Perhaps I can point that up by one of the problems which I used on the afternoon of July 14, as a matter of fact. We had a large number of American guests in our hotels -- I am speaking of the Canadian Pacific -- at Lake Louise and Banff. In the event of a complete shutdown of railway services these guests would not only be left stranded in the hotels, but there would also be the matter of supplying sustenance to them in a more or less isolated region such as that. Consequently we had special trains made up which were parked at Banff, and the fastest possible schedule was arranged between Banff and Portal, North Dakota, so that we could get these American tourists and visitors out of Banff to Portal, or the American border, by 6 a.m., or at least get them out of Moose Jaw by 6 a.m. on the morning of July 15, and enable them to return to their own country.

As a matter of fact, the guests were already loaded on the trains at Banff ready to leave when the settlement was arrived at. I merely tell you all that to give you some indication of how serious the situation was. I think that broadly covers the 35 cent case in the wage rates.

MR CARSON: Thank you, Mr. Crump.

Now I would like to go to our submission, Part I, at page 4, quoting from the outline submission, commencing at paragraph 18. That submission describes in a very general way the nature of the organization of the administrative forces of the Company, and refers to a map showing the traffic density by subdivisions on the railway in 1948, a map which I am not asking you to deal with; Mr. Liddy is going to deal with that.

Then paragraph 19 points out that that map shows the extent to which the Canadian Pacific Railway consists of low density lines. Reference is then made to costs per unit of traffic within certain limits tending to have certain consequences as the density increases, and it goes on to say that the continued operation of many branch lines is justified only because they act as feeders to the higher density main lines.

Then I would like, if I may, to read paragraph 20:

"Notwithstanding the general upward trend of wage and material costs, the average revenue received by Canadian Pacific for hauling one ton of freight one mile was 1.2¢ in 1885 and 1.13¢ in 1948."

Q. And that, I believe, takes into account, of course, the effect of the 21% increase from April 8, 1949; I am right in that, Mr. Crump?

A. I did not make this chart up.

Q. Well, Mr. Evans reminds me that Mr. Liddy made that study.

"In terms of real purchasing power the cost to the shipper today is less than half that of 1885. These facts are apparent from the chart at page 4 of the Appendix. This reduction in rail transportation costs was achieved not only as a result of increased traffic

volume but also as a result of a more efficient use by Canadian Pacific of its plant and equipment. The increase in efficiency has been possible because heavy capital expenditures have been made by the Company.

"21. While the Canadian Pacific railway system is to a very great extent the same as originally surveyed and constructed, the capacity and efficiency of the plant has been increased by improved roadbeds, heavier rail, greater capacity of freight cars and locomotives, installation of automatic signals and improvements and additions to terminal facilities. These improvements have taken place gradually but the development of Canada and the demands for improved service require that very substantial capital projects be undertaken by Canadian Pacific in the immediate future."

It is that paragraph 21, my lord and members of the Commission, that I propose to have Mr. Crump speak about in a moment or so.

Then in the further submissions there is a little elaboration of the history of the building of the plant and the policies. Dates are given when the main line was completed, and reference is then made to the extension of the lines of the company as the country grew, and to improvements that were made to older property to increase capacity and improve efficiency. Then mention is made of the flow of traffic that increased as branch lines were added; reference is made to the enlargement and extension of terminal facilities, the construction of double tracking, heavier and improved rail and ballast, the installation of automatic signals, the purchase of locomotives and freight cars of greater capacity, and many other similar improvements. Then the effect of these improvements is indicated

in the Digest of Canadian Pacific Development, in the Appendix at page 27. Mr. Liddy will deal with the details of that appendix. Then the submission goes on:

"In skeleton form the following is a record of the growth of the Company over the past half century", and there is a very short table at the top of page 6, which compares the year 1898 with the year 1923 and the year 1948 in respect of mileage operated, the growth having been from 6,681 miles in 1898 to 17,032 miles in 1948. Comparison for similar periods is given in respect of the number of locomotives, the growth having been from 644 such units in 1898 up to 2,255 in 1923, but coming down to 1831 in 1948. Then a comparison is made of the total tractive effort of those locomotives in pounds, the growth being from 9,982,000-odd in 1898 to 73,700,000-odd in 1948. Then comparison is given of the revenue freight ton miles in thousands, the growth from 1898 to 1948 being from 2,142,320 -- but again the thousands are to be added to that -- to 25,218,400 in 1948.

Then the submission comments on that in these terms:

"Thus, over this fifty-year period while the facilities of the railway as measured by miles of road and number of locomotives were expanded from $2\frac{1}{2}$ to 3 times, tractive effort of locomotives increased sevenfold and the freight traffic handled increased twelvefold. Reference to the table at p. 5 of the Appendix" --

another matter to which Mr. Liddy will refer --

"will show how, over the same period, the revenue per ton mile in terms of constant purchasing power declined in 1948 to less than one-half of what it was in 1898. However, it should be stressed that revenue

in 1948 was inadequate to maintain the Company in a sound position, although the additional revenues required would not substantially change the relationship between 1898 and the present."

Now, Mr. Crump, with that introduction to matters with which you are thoroughly familiar, I would like you, if you would, to continue to read from there on for a moment.

A. To finance the additions and betterments which made possible these improvements in its ability to handle traffic, Canadian Pacific has had to secure large sums of additional capital funds. While these funds were obtained in part by the sale of equity stock and fixed interest obligations, a considerable amount was reinvestment of net income and funds made available through depreciation charges. The Company, from an early stage in its development, followed a policy of reinvesting, rather than distributing to stockholders, substantial portions of its net earnings.

The fact that Canadian Pacific was able to continue on a sound financial basis when other major railways in Canada became insolvent is in no small measure due to the adoption of conservative policies in construction and finance. The result is that Canadian Pacific has been able to furnish efficient and economical transportation service to Canada in peace and in war.

Throughout the depression, war and post-war periods extending over the past twenty years, however, Canadian Pacific has been finding it increasingly difficult to continue the desirable policies which it had previously followed. During the 1930's funds for undertaking any extensive program of capital improvements were not available, and in any event traffic levels of those

years would not have justified them. In the war years, the Company enjoyed a relatively satisfactory level of net railway earnings, but shortages of labour, materials and equipment prevented the possibility of carrying out any improvement program other than works of most urgent and immediate necessity. In the post-war period, Canadian Pacific has been caught between the millstones of sharply rising costs and revenues held down by rates close to prewar levels. As a result, net railway earnings have been insufficient either to provide the funds required for reinvestment in the property or to attract the necessary amount of new capital to the enterprise.

(Page 13689 follows)

While the era of branch line construction which ended in the late 1920's is not likely to recur, Canadian Pacific has a continuing need for funds to enlarge and improve its property in keeping with changing conditions. Terminals and freight sheds must be redesigned and relocated because of industrial growth. Ability to move an increasing volume of traffic more expeditiously requires extensive signal installations. Track standards must be improved with heavier rail, and better ballast. New and improved types of motive power and equipment have been developed and are required to handle increased traffic more efficiently.

Q. Now, Mr. Crump, in the 20 Percent Case before the Board of Transport Commissioners you and Mr. Newman gave evidence relating to the anticipated requirements of your Company in the five-year period 1950 to 1954 inclusive. Mr. Newman's position with the Company is what?

A. Mr. Newman is Chief of the Motive Power and Rolling Stock and Manager of the Research Department.

Q. And the evidence to which I refer outlines the programme involving capital expenditures for roadway property and equipment averaging some \$75 million annually during that five-year period?

A. Yes.

Q. And then, at page 1296 of the evidence in that case, you state that while the capital expenditure projects were not to be treated as projects to which the Company was definitely committed, they were the minimum, in your opinion, of what the Company must undertake if it was to provide for the increase in requirements of the public service. Now then, I would like you to go on and tell the Commission in the light of the Brief what those expenditures include?

A. REPLACEMENT OF WORN OUT FACILITIES:

As railway property becomes worn out it must be replaced in order that service can be maintained. Under normal conditions annual depreciation accruals should provide for the replacement in kind of worn out depreciable property such as rolling stock, bridges, buildings and the like. However, under existing conditions there has been such a marked change in price level that there is a wide gap between the cost of new property and the original cost of the old property on which depreciation has been accrued. Thus, additional funds are required to bridge this gap in order to maintain even a property of unchanged capacity.

IMPROVEMENTS IN SERVICE

The quickening tempo of business brought about by increased specialization, faster and larger scale production and high cost of labour and material has accentuated the desire to keep inventory low and turnover high. To meet these changing needs of commerce, in the face of growing competition from other forms of transport, Canadian Pacific must be prepared to render the kind of service required. To do so it must modernize existing facilities and secure new tools.

ECONOMIES IN OPERATION

Canadian Pacific is today confronted with labour and material costs higher than ever before in its history. In an endeavour to offset these higher costs and to avoid their full effect being passed on to its customers, Canadian Pacific must employ new materials and methods wherever possible. The benefit of technological improvements must be obtained. This will entail the expenditure of a substantial amount of capital funds.

EXPANSION TO MEET GROWING NATIONAL REQUIREMENTS

Apart from consideration of ways and means to handle present traffic more expeditiously and economically, the growth of Canada has to be taken into account. Currently the population of the Dominion is increasing by approximately 300,000 persons annually. The long term trend indicates that the normal volume of freight traffic handled by the Canadian Pacific averages 1,500 revenue ton miles per person per year. Consequently, Canadian Pacific is faced with a potential annual traffic growth of 450,000,000 revenue freight ton miles. This will necessitate enlargements of the railway plant. This, as Mr. Newman explained in his evidence in the 20% Case, does not mean that the increase in traffic due to increase in population will necessarily be imposed upon the present high traffic volume. It does mean, however, that the normal average volume of traffic will increase with the population and the railway plant and equipment must likewise have increased capacity. Mr. Newman explained, p. 1453 of the transcript in the 20% Case, that neither equipment nor plant should be geared to the foreseeable maximum volume of traffic but to the foreseeable or probable average volume of traffic, so that in peak years nearly maximum utilization could be obtained and in below average years no large excess of capacity would be present.

Canadian Pacific is confronted with the necessity for securing substantial amounts of new capital. The railway plant and facilities are not static but must grow with Canada and keep in step with the times. If the Company cannot attract capital for these purposes, it will become sterile to the detriment of the nation. Adequate facilities and equipment are essential for efficient service and economical operation.

Q. Mr. Crump, I would like to interrupt there, if I may, and ask you to tell the Commission something about what you have in mind in that particular sentence that you have just read. You had referred on page 9 at the top to the need for modernizing existing facilities and securing new tools and that sort of thing. Would you elaborate on that a little bit, please?

A. Well, to my mind, one of the best examples of new tools that the railways need and are now acquiring are diesel locomotives. The Canadian Pacific has felt for some time that diesels are a highly desirable transportation tool, and, as a matter of fact, we started acquiring diesel switching locomotives in 1942 and since that time we have steadily acquired diesel switching locomotives.

I might give just an illustration of just what I mean ~~there~~ in that in acquiring these diesel locomotives, we have been able to place them in busy terminals on the basis of twenty-four hours a day and seven days a week. In other words, the steam yard engine perhaps can work a maximum of 16 hours a day because it must be taken off for servicing due to the mechanical features of the steam engine, whereas a diesel can work 24 hours a day and seven days a week.

(Page 13695 follows)

As a matter of fact, I think we take them off for sixteen hours a month for servicing and inspection.

Q. Does that mean that they are in continuous operation, say for those sixteen hours each each month?

A. They are in continuous operation save for the sixteen hours I mention, except for the taking on of fuel and sand, which is only a few minutes' operation.

Q Yes.

A We have added to our diesel equipment with the thought in mind that any diesel switchers we acquire should be placed at points where they can perform that type of service on a 24-hour basis.

More recently we have gone into road operation of diesels. We now have Vancouver Island entirely dieselized. All steam engines have been taken off Vancouver Island.

I might say that this is a very desirable programme in my view, that is, taking segregated territories and dieselizing them completely, if we can do so, because then we are enabled to remove all of the coal or steam handling facilities.

On Vancouver Island, for instance, where we now have entirely diesel operation, we can remove the coal boxes, the water tanks, the ashpits, and other facilities which go to the servicing of steam locomotives, and thereby obtain maximum economies.

The first entirely dieselized territory was Vancouver Island. And secondly we undertook a study of the territory which we operate between Moatreal and Wells River, Vermont which is, shall I say, international territory. In that territory our equipment operates in both the United States and Canada, and we now have that territory entirely dieselized for freight service. And Thursday morning, that is to-morrow morning, we will put our

final steam engines in that territory out of commission on passenger trains, and operate our passenger trains also with diesel locomotives.

Following the study that was made in Vermont, on the Vermont service, we then studied the territory north of Lake Superior, which is known in the Canadian Pacific as the Schreiber Division, or the North Shore. And we now have placed orders for 58 diesel locomotives to dieselize the entire operation, that is to say, the entire freight operation on the Schreiber Division. We anticipate that project will be completed by some time next fall. Incidentally, these diesel locomotives will be entirely made in Canada; that is, they are Canadian made locomotives.

We have further studies under way for dieselization of certain sections of our territory where we consider substantial operating savings could be made. As a further example of what I mean, here is one which has just occurred to me.

We now have a demonstrator unit operating on our railway-- and the Canadian National has one also - - consisting of three units of 1500 horse power each, or a total of 4500 horse power, which is loaned to us by General Motors, for test and control under any conditions in Canada in which we might wish to test it.

We have felt that while dieselization had gone forward very rapidly in the United States in past years, we should proceed a little more slowly, and we felt, and still do feel, that there are many problems of operation in Canada to be faced with diesel locomotives, which our American friends do not have to face and consequently have not solved. But with the two demonstrator units of both railways, we hope to produce much useful

information to govern our future thinking on this matter.

In other equipment, with trends of equipment changing, as in freight equipment, for instance, we have built, in the last two or three years, covered hopper cars, a type of car which is comparatively new in railroad service and new in Canada. The Canadian National and we have built some of those cars.

Essentially, they are just a large coal hopper car from which the load is taken from underneath from hoppers which are covered on the top with hatches, so that materials such as bulk cement can be handled without the necessity of bagging and so forth.

We are also building heavier box cars of greater capacity, and gondolas and longer flat cars and things of that type. I think that, perhaps, adequately explains what I meant in the way of equipment.

Now we have another problem which to me is exceedingly important as Chief Operating Officer of the railway, and one in which I am very much interested, and that is signal installation.

Essentially the Canadian Pacific is a single track railway, and the installation of signals has proceeded in past years at, what I felt personally was too slow a rate. I would like to see them developed at a greater rate because they increase the capacity of our line.

An illustration of that is that during the War the traffic borne by our North Shore line, or the Schreiber Division which I referred to a moment ago, was extremely heavy. There were no signals in that territory between Fort William and in the vicinity of Sudbury.

After a very complete^{and}/exhaustive study of signal practice in the United States, we decided upon a system of signalling that I designate as a modified A.P.B system,

and that system was installed on the two central subdivisions of the Schreiber Division in the territory from Chapleau to Schreiber, and those signals increased the capacity of our line and enabled us to handle the traffic much more economically.

Q While you are at that stage, could you tell the Commission, by way of contrast, how you carried on without signals, how could you operate without signals?

A. Operation without signals is carried on by train order entirely. Orders are handed to the engineer and conductor by operators along the line, and under those circumstances and the operating rules -- "Train and Inter-Locking Rules" is the official term -- certain restrictions are placed upon train operation. For instance, in following movements, it is necessary to keep either a time limit on following movements, or what is known as an absolute block, which means that a train will not be allowed to follow another train until the preceding train has reached the station ahead and reported in.

Now, under signal operation -- I might say that the term I used here a moment ago was "A.P.B." Do you wish me to go into that in detail?

Q Not in any great detail.

A. A.P.B. means "Absolute permissive block". The permissive feature allows trains to follow each other from one block to the other. That is one of the great advantages of signalling, because it increases the capacity of the line and allows you to get your trains closer together.

Q. How long is a block?

A. They vary in different territories, but a block cannot be less than the braking distance. Generally speaking I would say a block is from two to three or

and a half miles.

Q. Yes.

A. The installation of signals allows a greater number of trains to be handled and it increases the capacity of our line. However, should traffic increase beyond that point, there is a further recourse to which we can go, which was not available a few years ago.

As you will remember, a few years ago if traffic on a single track operation became too great for the capacity of that track, it was necessary to double track, that is to put in a second track and handle trains in each direction on individual tracks.

We now have a new tool in transportation which, in the ultimate, would not overcome the disabilities of double track, but which would, up to a point, take the place of double track.

Q. Do you mean "disabilities of double track", or of single track?

A. No. What I mean there is that with this new tool we are enabled to go a considerable distance toward the point at which, in past years, double tracking would have had to be done.

Q. I see.

A. This is called Centralized Traffic Control.

Q. What is that?

A. Centralized Traffic Control, more commonly known as C.T.C., and it very greatly increases the capacity of the line.

The Canadian Pacific has no sections with Centralized Traffic Control as such. We have some small operations which somewhat resemble it. But the best example of C.T.C. in Canada is on the Canadian National in the Maritimes.

Essentially, C.T.C. enables the handling of traffic

very largely by the despatcher at headquarters, through the control of automatic switches and signals out on the line.

We had in our studies considered C.T.C. for several operations in our railroad.

COMMISSIONER INNIS: Q. When you mentioned the line from Chapleau to Schreiber and the introduction of the new signalling system, what about the territory beyond? Would it be of much use to you if you did not have something past Schreiber?

A. You mean, I take it, that we are simply transferring the bottle neck to another section?

Q. Yes.

A. As it happened, in that instance, all eastbound and westbound passenger trains had to pass within that territory, and that is why those two central sections were done. Since that time, however, the eastern subdivision has also been done.

MR. CARSON: Q Some reference has been made to terminals. Can you say anything about them with respect to "need for improvements"?

(Page 13707 follows)

A. Yes. Terminal operation is an exceedingly important part of railway operation. The capacity of your railroad to handle traffic is not only governed by your line capacity, but also your terminal capacity. There are many, many improvements that can, and in my opinion should, be carried out in our terminals to expedite the movement of traffic through them. The best example of that that I can give the Commission is the work we are now carrying out in Montreal where we are constructing a retarder hump yard.

Q. What?

A. A retarder hump yard. I do not like to use these technical terms, but I have no other recourse, and I will be glad to offer any explanation. We hope this hump yard in Montreal will solve a very difficult problem that we have had there for some time, and will not only expedite through traffic, in other words, expedite all traffic passing through the terminal of Montreal, but also traffic arriving in Montreal for consignees in Montreal, and also for the movement of traffic out of Montreal originating at that point. It is a very large undertaking, and we hope to have it in service early next year. Just to give some idea of the size of it, there is something over 80 miles of trackage in the yard itself, and there are three individual yards, a receiving yard, classification yard and departure yard. We also have to have all of the facilities that go with a yard of that type, roundhouse facilities to care for the engines, repair track for the maintenance of equipment, storage yards, and icing yard, and all of the innumerable smaller projects that must go to make up a project of that kind. That is perhaps the primary object of what I am speaking about.

In more minor detail and very rapidly, we have some other projects under way that point up to us what might be done. There was recently installed in the Winnipeg yard a system known as the talk-back system. The yardmaster's office is elevated over the yard. He can look over his entire yard, and there is a loud-speaker broadcasting system at strategic points in the yard, and if he sees a crew and engine working down here which he wants to send to some other place, he simply has to call on his telephone and it is broadcast at that point. His instructions are broadcast, and if the crew want to talk back to him, there is a communication that they can go to and talk back. You might call it a talk-back system. That is about the best way I can designate it.

Q. Are we getting some of that from the Toronto taxicabs these days?

A. No, sir.

MR. FRAWLEY: Are you only getting those in Toronto?

THE WITNESS: I think perhaps what you are referring to is radio. This is a different matter.

MR. CARSON: Q. I wanted that brought out.

A. We have also installed in Toronto ⁱⁿ some switching engines two-way radio similar to what you have seen in many taxicabs. We have that installed on a few engines in Toronto. The use for that is, for instance, suppose a switching engine goes down into the heavily industrialized area; it may be away from the direct control of the yardmaster for a matter of some hours. If he has an order to give it, or wishes to change the order that it has, by means of radio he simply has to call in the engine, give instructions to the engineer, and if the

engineer wishes to get hold of the yardmaster he can call back. That is a very common operation in the air, and it is becoming common in taxicabs, but we have had considerable difficulty with it on the railway, and the problems are not all solved yet. It is an example of what can be done

COMMISSIONER INNIS: Q. Going back to the diesel engines, I am rather curious to know why you would instal them, for example, on Vancouver Island where I suppose the traffic density is not very great. You have brought out the point of ^{the} great advantage of continuous operation. I can understand your using them in Montreal where there would be continuous demand, but is there any explanation for using them on Vancouver Island?

A. Yes. Some of the reasons that governed the choice on Vancouver Island was that the operation on Vancouver Island is, from a railway point of view, relatively simple. It is not a large operation, and we were able to take out the very old steam engines that were operating in that territory, and replace them with fairly small capacity diesel units. As a matter of fact, we have there one thousand horsepower switchers; that is the type we have there. Then there are other conditions also. It is a heavily forested area, and a diesel operation is considered more safe from a fire protection viewpoint than steam engines.

Q. What happens to the engines that are displaced?

A. They are assigned to other territory if suitable. If the age is too great then they are scrapped. In some cases engines from that territory would be brought into the branch lines on the mainland, and they in turn would shove out at the bottom end some of the very, very old

1907

1907

1907

1907

1907

1907

1907

1907

1907

1907

1907

1907

1907

1907

1907

1907

1907

1907

1907

1907

engines.

Q. In Montreal your heavy engines would be displaced or put on other work?

A. They would be moved to other sections of the line. For instance, on the Schreiber division we are planning on the installation of 58 diesel units, and they will replace 68 steam units, and those steam units are relatively heavy modern power. They would move out onto other sections of the line, and in turn out onto branch lines and, as I say, will shove out at the bottom the very old locomotives. I think perhaps that covers pretty much what I had in mind.

MR. CARSON: Q. I gather from what you have been saying -- I was thinking particularly of your description of the unit yard at Montreal. I take it, Mr. Crump, that among other things it enables the railway to give better service to the shippers and quicker service?

A. Most decidedly; that is what I meant by expediting traffic in the terminal.

Q. I interrupted you to invite some explanation about these matters. You were at page 10 where you state:

"Adequate facilities and equipment are essential for efficient service and economical operation."

Would you just continue from there, please?

A. If these are not provided the inevitable result must be either deterioration in service or higher unit costs of operation or both. The Company must be assured of a level of rates which will afford the Company a fair measure of net earnings each year, in order that its credit^{position} may be restored. It can then secure the capital funds

required and under these conditions, is confident of its ability to render to the nation in the future, as it has in the past, efficient low cost transportation service.

Q. Mr. Crump, in the 20 per cent case Mr. L. B. Unwin, Vice-President of Finance of the Company, and Mr. Northey Jones, a partner in the firm of Morgan Stanley & Company in New York, gave evidence as to the desirable way in which the improvement program described by you and Mr. Newman should be financed. Just so that the Commission will have the effect of that evidence in mind, may I read next our summary of the effect of it.

Mr. Unwin gave evidence that the program would require \$90,000,000 of financing per annum to cover the new program and maturing obligations, and he gave his opinion that it was desirable that this should be financed to the extent of at least 60 per cent by issues of ordinary capital stock. He pointed out in view of the present condition of the company it is not possible to finance by new stock issues.

Then Mr. Northey Jones, in his evidence, expressed a similar opinion.

I think you pointed out in your evidence that it is extremely difficult to estimate what economies can be achieved by such a program of capital expenditures. Mr. Newman in his evidence pointed out that it cannot be expected that economies from improvements will be fully effective immediately. May I say that Mr. Newman will be called as to the details of the estimate, and the basis of the estimate of economies, because he made the study. I am not asking Mr. Crump about that. Any estimate of the amount of savings from a program of

improvements of this kind must be accepted with the greatest reserve. It must of course assume a continuation of the present level of unit costs for labour and materials and the present trend of the volume of traffic. For this and other reasons it must in its very nature be considered to be at best an approximation of anticipated savings. Subject to these reservations an estimate has nevertheless been made.

That is the estimate that Mr. Newman made?

A. Yes.

Q. Then I think we can pass over to page 14. I think the intervening part speaks for itself. I should like to direct your attention to the bottom of page 14, and I would like you to read, if you will, commencing with the paragraph, "In the result" --

A. In the result, therefore, the gross operating savings less interest and amortization on the capital expenditures would be insufficient --

Q. If you do not mind me interrupting for a minute, that is a necessary amendment in the submission in order to have it correspond with the appendix. The amendment should be by striking out the words, "only slightly more than sufficient" and substituting one word, "insufficient".

THE CHAIRMAN: What do you substitute?

MR. CARSON: The word "insufficient".

Q. Mr. Crump, so that we can get the sense of it again with that amendment, would you read from the beginning of the paragraph?

A. In the result, therefore, the gross operating savings less interest and amortization on the capital expenditures would be insufficient during the first five years to cover additional charges to operating expenses.

In the sixth year and thereafter, however, the

operating savings attributable to the first five-year program after deduction of interest and additional depreciation accruals, would be in excess of \$11 million per annum. This is because on completion of that five-year program the charges to expenses for replacement in kind of non-depreciable road property items would have come to an end. It must be borne in mind that after the end of the five-year period the probability is that a continuing cycle of improvements will be necessary. These in turn, during their installation, will involve increased maintenance expenses which will, like the first cycle, gradually be offset by the savings they will achieve.

It is impossible to say whether a continuation of such a program into a second cycle of five years would produce similar results but it may be assumed that at least some savings could be achieved in the same way.

Q. In the appendix at pages 28 to 37 will be found a memorandum indicating the nature of the program. I am not asking Mr. Crump about that. It will be explained by Mr. Newman. At pages 28 to 37 will be found a memorandum indicating the nature of the program, together with two statements showing the nature and some detail of the program, the gross capital expenditure involved, the gross savings, the interest and amortization charges, together with the net savings per year after the year 1955. The first of these statements shows the information for equipment and the second statement shows the information in respect of road property and equipment combined.

Paragraph No. 22 of the Outline Submission refers to certain charts indicating that the gross earnings of

the Canadian Pacific are taking a decreasing proportion of the national income and that the ratio of net to gross earnings has been diminished drastically.

(Page 13717 follows)

That is a matter that will have to be dealt with by Mr. Liddy.

Q. Now would you be good enough to read paragraphs 23 and 24, Mr. Crump?

A. If Canadian Pacific is to continue to give low-cost, efficient transportation, a reasonable ratio between net and gross earnings must be provided.

24. Prosperity throughout Canada results in increased volume of traffic for Canadian Pacific. Anything which impairs or retards the national economy adversely affects Canadian Pacific interests. This is particularly true in respect of Western Canada where the Company has two-thirds of its railway mileage. Therefore, there can be no essential conflict between the Canadian Pacific and the national interest in relation to Western Canada or any other part of Canada.

MR CARSON: Now, I think that is all I want to direct your attention to at that part of the submission.

Next may I invite the attention of the Commission to page 137 of Part II; that is the section dealing with Grade Crossing Elimination, which is a somewhat different subject. To introduce the subject, my lord, I propose if I may to read the first two paragraphs on that subject:

"At page 3935 of the transcript, the Brief of the Province of New Brunswick recommends that all level crossings be eliminated within a reasonable period, with Government assistance if necessary, and that in the interval all crossings be protected by electric signal devices. Again at pages 3979-80, the Province states, after pointing out that there are approximately 32,000 railway crossings in Canada, that the most dangerous should be eliminated by grade separation,

while the latest type of flashing light and sounding alarm should be placed on the less dangerous ones. It recommends that the Federal Government should take the initiative in a program of this kind, with 70% of the cost to be borne by the Federal Government, 10% by the Provinces and Municipalities and 20% by the Railways.

"Under Sections 256 to 267 of the Railway Act, the Board of Transport Commissioners is already vested with full power to order grade crossing elimination or protection by automatic signal devices or otherwise, whenever the Board deems such measures necessary on grounds of public safety. Thus no change in the Act is necessary in this respect."

Q. Now, Mr. Crump, would you be good enough to take up now the next few paragraphs?

A. A policy of grade crossing elimination has been maintained by the Federal Government for many years under Section 262 of the Act, which provides for the establishment of the Railway Grade Crossing Fund. This fund is replenished each year by an appropriation of \$500,000 from the Consolidated Revenue Fund of Canada, and is administered by the Board of Transport Commissioners, which has power to make contributions from it to aid in actual construction work for the protection, safety and convenience of the public in respect of level crossings. Under the Section as it now stands, contributions from the Fund are limited to 40% of the total cost of actual construction work with a maximum to any one project of \$100,000.

Every province is at liberty to make additions to the Grade Crossing Fund upon its own terms, and Subsection 2 of Section 262 provides that conditions and restrictions made and imposed by a province in respect of its contributions shall be observed by the Board."

MR CARSON: Now, before you go on there, Mr. Crump, I thought it would be convenient if I read to the Board and had included in the record the provisions of section 262 as those provisions now stand, because there have been a number of amendments, or some amendments at any rate, since the Revised Statutes of 1927:

"262(1) The sums heretofore or hereafter appropriated and set apart to aid actual construction work for the protection, safety and convenience of the public in respect of highway crossings of railways at rail level shall be placed to the credit of a special account to be known as 'The Railway Grade Crossing Fund,' and shall (insofar as not already applied) be applied by the Board, subject to the limitations hereinafter set out, solely towards the cost, not including that of maintenance and operation, of actual construction work for the protection, safety and convenience of the public in respect of crossings (railway crossings of highways or highway crossings of railways) at rail level in existence on the first day of April, one thousand nine hundred and nine, and in respect of existing crossings (railway crossings of highways or highway crossings of railways) at rail level, constructed after the first day of April, one thousand nine hundred and nine, provided, however, that the Board shall not apply any moneys out of The Railway Grade Crossing Fund towards the cost of the actual construction work, for the protection, safety and convenience of the public in respect of any existing crossing (railway crossing of a highway or highway crossing of a railway), at rail level, constructed after the first day of April, one thousand nine hundred and nine, unless and except an agreement, approved of

by the Board, has been entered into between the company and a municipal or other corporation or person by which agreement the municipal or other corporation or person has agreed with the company to bear a portion of the cost of the actual construction work for the protection, safety and convenience of the public in respect of such crossing (railway crossing of a highway or highway crossing of a railway), at rail level, constructed after the first day of April, one thousand nine hundred and nine.

(2) The total amount of money, to be applied by the Board out of The Railway Grade Crossing Fund, under the provisions of this section, in the case of any one crossing, where the cost of the actual construction work in providing the protection, safety and convenience for the public does not exceed one hundred thousand dollars, shall not exceed forty per cent of such cost, and the total amount of money, to be applied by the Board out of The Railway Grade Crossing Fund, under the provisions of this section, in the case of any one crossing, where the cost of the actual construction work in providing the protection, safety and convenience of the public exceeds one hundred thousand dollars, shall not exceed forty per cent of such cost, and shall not in any case exceed one hundred thousand dollars.

(3) In case any province contributes towards The Railway Grade Crossing Fund, the Board may apportion, direct and order payment out of the amount so contributed by such province for the purpose of the said fund, subject to any conditions and restrictions made and imposed by such province in respect of its contribution.

(4) In this section 'crossing', means any railway

crossing of a highway, or any highway crossing of a railway, at rail level, and every manner of construction of the railway or of the highway by the elevation or the depression of the one above or below the other, or by the diversion of the one or the other and any other work ordered by the Board to be provided as one work of protection, safety and convenience for the public in respect of one or more railways of as many tracks crossing or so crossed as in the discretion of the Board determined.

(5) The grants or the unexpended portions or moneys thereof made under the provisions of the Acts, chapter thirty-two of the statutes of 1909, chapter fifty of the statutes of 1914, and chapter thirty of the statutes of 1919, of two hundred thousand dollars each year for twenty consecutive years from the first day of April, one thousand nine hundred and nine, may, from and after the passing of this Act, notwithstanding any provision of any of the said Acts, be expended to aid actual construction work for the protection, safety and convenience of the public in respect of crossings (railway crossings of highways or highway crossings of railways) at rail level in existence on the first day of April, one thousand nine hundred and nine, and in respect of existing crossings (railway crossings of highways or highway crossings of railways) at rail level, constructed after the first day of April, one thousand nine hundred and nine, subject to the terms and conditions in this section contained.

(6) The sum of two hundred thousand dollars for the year commencing on the first day of April, one thousand nine hundred and forty-seven, and the sum of five hundred thousand dollars each year for nine consecutive years from the first day of April, 1948, shall

be appropriated and set apart from the Consolidated Revenue Fund of Canada to aid actual construction work for the protection, safety and convenience of the public in respect of highway crossings of railways at rail level in accordance with the provisions of this section."

THE CHAIRMAN: Mr. Carson, we will take a few minutes now.

MR CARSON: Thank you, my lord.

---(Recess).

THE CHAIRMAN: Mr. Carson, the section that you just read has been amended very considerably since the revision.

MR CARSON: Yes, my lord.

THE CHAIRMAN: Have you got the year of that particular form?

MR CARSON: Yes. Of course, your lordship will appreciate that my purpose in reading what I did just a moment ago was so that your lordship and the members of the Commission and the reporter would have it on the record as the section now is, but, so that your lordship may have the amendments, the section appears in the Railway Act, Revised Statutes of Canada 1927, chapter 170; then it was repealed in 1928 by 18-19 Geo. V, chapter 43, and a new section substituted, and the new section was amended in 1929, 1947 and 1948, so as to read as I have put it on the record for the Commission now. The reason I took the time to do so was that it is a little difficult to follow through the amendments, and I thought the Commission would like to have the language before it.

THE CHAIRMAN: That is all right. There should be office consolidation in the Act that would bring all

that up to date.

MR CARSON: My lord, unfortunately there is not, I understand.

THE CHAIRMAN: There is not?

MR CARSON: No, not as one has it in 1948. They use what they call a concordance, that was published in 1939, but there have been a number of amendments since then, and I do not know that there is any later concordance; I do not think there is any later concordance or consolidation.

THE CHAIRMAN: Thank you.

MR CARSON: Q. Now, Mr. Crump, the provisions of the section now being before the Commission, would you please proceed with page 138, line 3, of Part II, where I interrupted you, where it commences, "It is thus . . ."

A. It is thus within the power of a province to expedite grade crossing protection within its boundaries. Nevertheless the Annual Reports of the Board indicate that no province has ever taken advantage of this opportunity by a contribution to the Fund.

The cost of a grade separation depends upon conditions at the point of crossing, but in recent years the costs of various projects have reached as high as \$700,000 and an average might be estimated at \$300,000. Similarly, the cost of installation of automatic protection at grade crossings averages in the vicinity of \$6,000. In the light of these figures the impossibility becomes apparent of eliminating or even protecting by automatic devices, all of the grade crossings in Canada.

Q. Just pausing there, Mr. Crump, could you tell the Commission what the total number of such grade crossings is in Canada?

THE CHAIRMAN: It is in the book: 32,000.

THE WITNESS: 32,000 -- a little previously there.

MR CARSON: Q. Yes, but I rather wanted to know if you could tell the Commission how many were unprotected at the present time by those safety devices or automatic devices?

A. No, I cannot tell how many in Canada.

Q. Perhaps I should ask about the Canadian Pacific.

A. I have those figures for the Canadian Pacific. Urban crossings---

Q. These are presently unprotected by these automatic devices?

A. Yes. Urban crossings unprotected, 1,397.

Q. Yes?

A. Rural crossings unprotected, 10,858.

Q. That would make a total, as I have it noted, of 12,255?

A. Yes.

Q. And at the average cost of installation of automatic protection of \$6,000, that would work out at something like \$73½ million?

A. Yes.

Q. Now would you proceed, Mr. Crump, please?

(Page 13727 follows)

It is also evident that if an accelerated program of grade crossing elimination is to be undertaken, it will impose upon the railways an insupportable burden of cost unless the limitations now imposed upon contributions from the Grade Crossing Fund are altered. The usual practice of the Board in grade separation and protection cases is to apportion between the railway and the highway authority, the balance of cost remaining after contribution from the Grade Crossing Fund, and when the total cost is from \$300,000 to \$700,000 this balance is very substantial. Canadian Pacific submits that the limitation of \$100,000, which was fixed by an amendment to the Act in 1928 (Chapter 43), has become obsolete by reason of increased costs of construction. Moreover, the imposition of any fixed maximum amount is illogical and should be deleted from Section 262. If it is proper for a percentage of the cost of a grade separation to be assumed by the Grade Crossing Fund, it is manifestly unfair to prevent that percentage from being granted because of the operation of a fixed limit in the statute. The result in such a case is to throw an undue burden upon the railways.

Q. Perhaps, I should pause here, Mr. Crump, to remind the Commission that the reason advanced by the Province of New Brunswick for proposing an increased programme of crossing protection and elimination is (and I quote from their Brief) "The improvement of highways and of motor vehicles making average speeds much greater". It is in the transcript at page 3979. Will you carry on from there as to the position of your Company?

A. Canadian Pacific desires to emphasize that every highway improvement has, among other things, the effect of facilitating the operations of its competitors on the highways

Highway movements are yearly becoming more extensive and more within the Provincial and Dominion fields of responsibility. In addition the number of motor vehicles using the highways is steadily mounting. On the other hand, while the railways are at present carrying more traffic than in former years, this is being done largely by the operation of longer trains, so that there has been no substantial increase in the number of trains operated. Thus the additional hazard that may now exist at grade crossings cannot be said to be attributable to the railways. It would be most unjust to burden the railways with large increases in costs due to greater hazards caused entirely by the increased motor traffic. The protection against this increased hazard should largely be provided by the highway authorities, which can then pass on to highway users the added cost attributable to their use of the crossings. Modern highways have been required in the public interest, and protection against the added risks should be borne by public funds.

Q. And I take it you mean there again borne by the highway authorities and passed on to the users?

A. Yes sir. Canadian Pacific therefore agrees with the proposal of the Province of New Brunswick that contributions from the Grade Crossing Fund should be raised from 40% to 70%.

Q. And then I should remind the Commission that on page 3980 of the transcript, the Province of New Brunswick proposes that the cost of grade crossing elimination should be apportioned, after contribution from the Grade Crossing Fund, 10% to the Province and municipalities and 20% to the railways. Would you continue, Mr. Crump, please?

A. It has always been the practice of the Board

to examine the merits of each crossing case coming before it to determine the manner in which costs of improvements should be shared among the interested parties. When it is considered that there are frequently six or more parties to such cases, with various degrees of interest and responsibility, it becomes clear that the power of apportionment should be left to the Board and that any attempt at a fixed formula would be unfair and impracticable. Moreover, an apportionment of 20% of the cost to the railways would in itself be unreasonable. As pointed out above, the railways have not been responsible in any way for the need of increased crossing protection, and the provinces and municipalities should in large part assume this burden.

Q. I should just like to conclude your examination by reading the last paragraph on this page. It is worthy of note, however, that in this submission New Brunswick is in favour of part of the cost being assessed against the province. This is a departure from the position assumed by provincial authorities for many years, that as the Crown is not named in Sections 256 to 267 of the Railway Act no provincial contribution toward the cost of crossing improvement may be ordered by the Board even in respect of a provincial highway. Under the present wording of the Act, the Board has been obliged to uphold this position (and reference is made to the case of Deloraine v. C.P.R., 46 C.R.C. 48 and other cases), although in some instances the difficulty has been overcome by the voluntary consent of the province to assume part of the cost. However, while in theory the Board should have freedom to decide on grounds of public safety alone, whether protection or grade separation is or is not to be undertaken, it has in practice been hampered in many cases by the fact that provinces have refused to contribute. To rectify this situation Canadian Pacific

submits that the Railway Act should be amended to permit assessments to be made against the Crown in respect of improvement of railway crossings on provincial highways. That is all, thank you Mr. Crump.

THE CHAIRMAN: Any questions?

- - - - -

CROSS-EXAMINATION BY MR. BRAZIER

Q. Mr. Crump, I have a very few questions I wish to ask you at this time. I wonder first would you turn to page 8 of Part I of the Brief. In the paragraph with the heading "Replacement of Worn Out Facilities", the second sentence in that paragraph reads as follows!

"Under normal conditions annual depreciation accruals should provide for the replacement in kind of worn out depreciable property such as rolling stock, bridges, buildings and the like".

Now, I would just ask you this question in regard to that sentence, Mr. Crump. I am wondering if you are attempting there to state a principle of depreciation accounting or are you just stating the hopes of management that your depreciation charges will be sufficient in any one year to cover your replacement costs?

MR. CARSON: Perhaps I can answer my friend on that as I am co-author of the Brief. We are simply stating a plain fact; we are not enunciating any principle.

MR. BRAZIER: Well, can you point to any normal time in the history of the Canadian Pacific Railway in which your depreciation charges did cover your replacement costs?

THE CHAIRMAN: Would you please repeat the question?

MR. BRAZIER: Can you point to any normal period, that you would classify as a normal period in the Company's

history in which your depreciation charges covered the replacement costs?

A. No, I cannot do that. I think that is an accounting matter which Mr. Liddy could answer, but I am afraid that I could not.

Q. Well, I just asked you that, Mr. Crump, because you did read that section of the Brief, and you will undoubtedly recall the dispute between the parties in the last general rate case as to what depreciation should provide?

A. I think the technicalities of that dispute are a little beyond me, but to my mind conditions are so abnormal that this paragraph should hold true.

COMMISSIONER INNIS: Do you assume that there will be further price rises or that the prices will remain the same?

A. No sir, I cannot assume that there would be further price rises. Perhaps prices will remain stationary for a while.

Q. If they were to come down this situation would change?

A. Most decidedly, sir.

MR. EVANS: You would really have to compare them with the costs of the assets being replaced in a particular time, which might be thirty years prior.

COMMISSIONER INNIS: I wondered if you had any policy in regard to doing this sort of work in periods of low prices and slacking off in periods of high prices?

A. Well, to my knowledge Mr. Commissioner, in periods of low prices we have not had the money available to do that type of work but from my view point I had in mind particularly here a boxcar perhaps which was purchased at \$1200 thirty years ago and which we now have to replace with a boxcar

costing \$5500 or \$5700.

MR. BRASIER: Well, in that case, Mr. Crump, you are not really replacing in kind are you, the equipment that has been worn out?

A. Not strictly speaking. We are replacing a unit of work.

Q. The new boxcar would have a greater capacity for work than the old one?

A. Yes.

Q. Now, you are replacing your steam locomotives with diesels, of which you spoke. That is not a replacement in kind at all?

A. No, not when you get into diesels, but speaking of a boxcar, suppose we replaced a 40 ton boxcar that cost \$1200 with a 60 ton boxcar that cost \$5700, I have not worked out the mathematics, but it just does not look quite right to me from the view point that we were speaking.

Q. But the boxcar that you are obtaining today will be a stronger and better boxcar aside from the capacity?

A. It will be a modern steel boxcar.

Q. Now, Mr. Crump, you gave us some information in regard to the policy of the Canadian Pacific Railway in replacing steam locomotives with diesels at the present time and I think it has been said before that you will probably never buy another steam locomotive. Is that correct?

A. I have made that statement.

Q. Now, would you be kind enough to outline more fully the nature of the savings that are made by replacing steam locomotives with diesels? I think you have mentioned a few, such as water towers, and so on. Could you give me a more complete picture as to what the situation would be?

MR. CARSON: I assume you are not asking Mr. Crump about the figures?

MR. BRAZIER: Oh no, the nature of it.

THE WITNESS: Yes. And I would say at the beginning that the over-all efficiency of the steam locomotive has been calculated for many years at somewhere between 5 and 6%; whereas the overall efficiency of the diesel locomotive is calculated at 27 to 28%, that is, the locomotive as a whole, not the prime mover only, which is 32 to 34%.

MR. BRAZIER: Q. What do you mean exactly by "efficiency of a locomotive".

A. The overall efficiency, actually, is the work out over the work in. That is a very simple way of expressing it.

Q. You mean, by putting in one ton of coal you get out --

A. The equivalent in energy.

Q. Yes.

A. The diesel locomotive, by its very much increased efficiency, naturally produces very substantial savings in fuel. That I think is the first.

Then, another desirable attribute of the diesel is that it is an electric transmission, which enables it to start very heavy loads and to develop very high tractive effort at slow speeds, thereby enabling it to handle greater tonnage.

Those are two of the principle savings. And then you come to utilization.

A steam engine, because of its very nature, cannot be utilized to nearly the full rating of the locomotive, whereas a diesel, or a diesel road engine, similar to what I described as a diesel switching engine, can be used

almost constantly with the exception of taking it off for very short periods for servicing.

Q There are other less determinate factors such as less crew fatigue; better visibility, more comfortable operation, and minor details such as that.

Q You did mention other factors in speaking of the operation now on Vancouver Island, such as the doing away with your water towers.

A. That is an integral part of any programme where you can entirely dieselize the area and thereby effect savings.

Q Can you tell us, when you can make that switch-over entirely, what further savings could be made in the way of plants, or are there any beyond those you have mentioned today?

A. I would not say so. Maintenance facilities must still be provided.

Q Do you have to have maintenance facilities as often along your right-of-way as you would with steam locomotives?

A. No, not as frequently.

Q Would it permit you, in due course, to eliminate some of your subdivisions?

THE CHAIRMAN: Some of your what?

MR. BRAZIER: Q. Subdivisions and the maintenance people who are employed there?

A. No. We cannot reduce the subdivisions. Subdivisions will always remain. We may reduce the maintenance facilities at some subdivision points and perhaps have to increase them at other points.

Q. Yes.

A. I have in mind a point where we now employ one electrician and where, if my memory serves me correctly,

should we dieselize at that point, we will have to employ fourteen electricians. That means a readjustment of staff.

Q. You probably saw the report in this morning's "Gazette" about the inaugural run on the Canadian National from Montreal to Winnipeg?

A. I heard about it but I did not see it.

Q. That report stated that one diesel would take the train from Montreal to Winnipeg, as against three steam locomotives that were used under the other system.

A. That is quite feasible, but you should bear in mind, of course, that we are running our steam locomotives from Montreal to Fort William, or from Toronto to Fort William. You are not intimating that one locomotive in that case, I mean one diesel locomotive takes the place of three steam locomotives?

Q. I was wondering about that.

A. I do not think the arithmetical proportion would work out that way. The best example I can give was the one I spoke of earlier where 58 diesel units -- and I wish to distinguish between units and locomotives, because we may use two or three units to make up a locomotive -- 58 diesel units will replace 68 steam locomotives. And if we use two units to the locomotive, that would mean that there would be about 38 or 40 diesel locomotives replacing steam locomotives in that territory. That is the best comparison I can give you.

Q. Now, I understand the diesel locomotive has the ability to run many more miles before repairs are required than does the steam locomotive?

A. Maintenance cost, which is I think what you mean, is somewhat indeterminate. That is, as yet, we do not feel that the overall maintenance cost of the diesel

locomotive will be very much less than that of the steam locomotive and that, while they can run for longer periods without repairs, nevertheless, when repairs are done, they are more expensive than with respect to steam locomotives

Q. Because it is a bigger job?

A. When you are considering diesel locomotives, you have only to think in terms of your own automobile. The problems are somewhat similar.

THE CHAIRMAN: In terms of what?

A. In terms of your own automobile, sir.

MR. BRAZIER: Q. You were explaining, Mr. Crump, that when you dieselize a particular area, the equipment of that area is taken off and put on other sections of the line, and that it forces the equipment down on to branch lines?

A. Yes.

Q I am thinking of the mountain division of the Canadian Pacific where you have very large steam locomotives. I understand they are the largest on the system,, the largest in the British Empire, are they not?

A. That is correct.

Q And they are relatively new locomotives ?

A Yes, some of them are relatively new.

Q. Now, would the ability of the Company to use equipment in one section, or rather would their inability to use that equipment in some other section of their operations slow down your plans for dieselization of that particular area, or would it not?

A. No, I think not.

Q. You would be able to use those larger locomotives elsewhere?

A. Yes.

Q Now, I presume you are making studies as to using

diesel locomotives over the mountains?

A. Yes, we are.

Q And they have been successfully used, I believe, by the Santa Fe, under similar conditions to those under which you operate in the mountains?

A. To some extent; but the Santa Fe is not nearly as rigorous as our conditions.

Q You mean weather conditions?

A Weather and gradients.

Q. Their gradients are lower?

A. To my recollection they are.

Q. There is one other subject about which I would like to question you. It is a subject about which I asked Mr. Walker some questions, and it is with regard to passenger operations, as to whether or not, in your opinion, your passenger operations today are carried on at a substantial loss?

A. Not having any figures available, what I say must necessarily be only an opinion.

I think that passenger operations in some sections of the country are being operated at a loss, but how substantial, I am not in a position to say.

Q. Are you satisfied that the Company could if it wished develop figures which would give you a reasonable picture as to whether or not there was a loss?

A Now, Mr. Brazier, I heard you ask that question yesterday. In asking an operating man, I feel that, being acquainted with the conditions, the practical conditions which go to make up these costs, I do not think they could be allocated other than on a statistical basis, that is, the value you want to assign to them.

Q. Well, under the premise that in cost accounting, any cost accounting must allocate any costs on a statistical

basis, that is not a unique condition, so far as railway costs are concerned, is it?

A No, I think not. But cost accounting is in many industries, to my knowledge, a fairly precise science and cannot be applied to the multitudinous operations that must be carried out on a railroad.

Q I might be inclined to agree with you there; but here we are just considering the one large factor in the operation. We are not trying to break down the operation of a passenger train, let us say, between Ottawa and Montreal; but we are taking in the whole operation.

A. I realize that. But there are so many factors which enter into it, I feel that the arbitrary factors would be much greater, in the case of a railway than in many other industries.

I do not wish to quote extremes, but I do not know whether you have seen -- " it has been the practice for many years in cost accounting, for instance, to take a motion picture of a man at work, doing a repetitive job; and whether he picks up his monkey wrench with his left hand or with his right hand is very carefully studied. But I feel that a railway is entirely far afield to that sort of thing.

Q Have you ever had an operating ratio for freight services developed for you, as an operating man?

A. No, I have not.

Q. And you have never seen any such ratio developed for the Company at all?

A No.

Q Since you have been a director of the Canadian Pacific, which was just quite recently?

A. Six months.

Q I suppose there has never been any discussion as to passenger losses, and what might be done about them, in meetings of the Board?

(Page 13750 follows)

A. No, I do not think there is, not to my recollection.

Q. As a railway operating man I presume you are satisfied that there is nothing much you can do under the present situation even if there is a loss on railway passenger traffic?

A. May I put it this way, Mr. Brazier, that on two occasions in the past year railway service has been disrupted into Vancouver. I wonder what position the Canadian Pacific would be placed in if we first cleaned up our freight accumulation after the line was restored.

Q. But you are not permitted to do that?

A. As a rule when the line is restored we shove our passenger trains through first and then follow them with freight trains.

Q. It is the general practice of the railways to give priority to passenger trains over freight trains?

A. Under the train and interlocking rules that is correct. Passenger trains are first-class trains.

MR. CARSON: You get more complaints from the passengers than the cattle.

MR. BRAZIER: Q. Does that priority cut down your ability to handle freight quicker?

A. No, I think not, Mr. Brazier.

Q. You do not think it has any effect on your freight operation?

A. Not with the proportion of passenger traffic which we handle.

COMMISSIONER INNIS: Q. Would there not be a tendency in the opposite direction, Mr. Crump?

A. I do not think I quite get your meaning.

Q. The fact that you must build up your facilities to handle passengers expeditiously means that you can

handle freight more expeditiously?

A. Yes, that is quite right. Facilities must be provided, and it aids in the handling of freight, but it is very, very difficult to distinguish to what extent that is.

MR. BRAZIER: Thank you.

CROSS-EXAMINATION BY MR. SHEPARD:

Q. I was interested in your evidence this morning about the necessity of improving terminal and signal facilities. I wondered whether there was any special significance in the fact that in Winnipeg you have installed the only talk-back system. It has nothing to do with what has been heard from the west in the last three years?

A. No. That was decided on purely technical grounds.

Q. I wanted to ask you if you knew what the cost was of installing that system?

A. As I recollect it, and this would be subject to confirmation, I think it was in the neighbourhood of \$80,000 over all.

COMMISSIONER INNIS: Is the province thinking of putting one in?

MR. SHEPARD: We will have to investigate it.

MR. O'DONNELL: They do not need one as long as they are here in person.

MR. SHEPARD: Q. I wanted to compare it with the cost of the improvement to the Montreal terminal. Have you any idea of what that total cost is?

A. I should imagine somewhere in the vicinity of \$11 million.

Q. I appreciate that you cannot move freight by a talk-back system. I am not making an exact comparison, but I wondered what the two figures were.

A. Of course, coming from Winnipeg you will realize that we had much superior facilities in Winnipeg than we had in Montreal to start with.

Q. Turning to page 4, I have one or two questions to ask by way of clarification of paragraphs 18 and 19, which I understand Mr. Liddy will deal with in more detail later. Paragraph 18 starts out with these words, "The organization of the administrative forces of the company" -- Would I be correct in assuming that by the "administrative forces of the company" you mean the supervisory personnel? Is that what is referred to there?

A. That is right, the responsible officers, as we term it.

Q. In paragraph 19, the second sentence reads: "Costs per unit of traffic within certain limits tend to increase as the density decreases --" I wondered whether there is any short way of elaborating on what the certain limits are that are referred to there?

A. I do not think there is any short way of elaborating on it. My personal experience in maintaining the railway would support this statement, but the science of maintaining a railway, if you wish to call it that, is not an exact science. It cannot be set down here and here. It depends upon many, many factors.

Q. To someone like myself, who does not know very much about running a railroad, that sentence does not mean a great deal, and I wondered if it was possible to elaborate on it?

A. Well, take lines on which you are running ten trains a day, five trains a day, one train a day. While

many of the costs are variable with traffic, there must be certain limits because if you are going to operate one train a day you must still maintain your track in a safe condition, and if you intend to operate ten trains a day then you must maintain it and replace wear and tear taken out by that additional ton mileage.

Q. In other words, there is a minimum maintenance standard, and you cannot go below it even if you have one train a day or one train a week?

A. So long as you continue operation.

Q. But those maintenance costs would not necessarily increase directly in proportion to the increase in traffic; it would depend on the density?

A. Well, a broad general statement such as that -- I do not know. There has been a good deal of work done on that problem, and frankly I do not know myself just what proportion of the cost varies, but I know that they do vary.

Q. I suppose you would agree that the amount of variation in cost is largely a matter of opinion and judgment?

A. Oh yes, I agree with that. I agree that experienced judgment is a very important factor in that matter.

Q. It is not a matter of mathematics to work out?

A. I have never been able to do so by mathematics.

Q. Now, Mr. Crump, I should like you to look at paragraph 20 on page 5. Mr. Carson has said that Mr. Liddy will be dealing with it in detail, but I wanted to ask you some general questions about it. The first sentence reads:

"Notwithstanding the general upward trend of wage and material costs, the average revenue received

by Canadian Pacific for hauling one ton of freight one mile was 1.2¢ in 1885 and 1.13¢ in 1948."

Later on in the paragraph certain factors are pointed out which would tend to explain away the failure of today's revenues, being very much higher than they were in 1885. You name increased traffic volume and increased efficiency? I wanted to explore increased efficiency a little bit with you. There are a large number of factors which enter into that phrase; I think you would probably agree with that?

A. Yes, I will.

Q. They would include technological advantages in cars and motive power and the handling of trains generally?

A. Yes, I think not only technological advances, but there have been advances in methods of procedure and practice, all of which have contributed to the over-all increase in efficiency.

Q. I suppose the size of the trains, the number of cars, and the amount hauled per train have increased very substantially since 1885?

A. Yes, it has.

Q. And the matter that you have been speaking about this morning, signals and communications, would add to the efficiency?

A. Yes, they add to the efficiency of the railway.

Q. And increased speed of trains would add to the efficiency as well; has there been a substantial increase in speed?

A. Not a substantial increase in speed. My memory is not too accurate on this, but until the recent high speed diesel trains were put into operation in the United States the world speed record had been established

about forty or forty-five years ago.

Q. Are there any other factors that you would lump generally together in the phrase "increased efficiency" that you can think of at the moment?

A. There are so many factors that enter into the making up of that in a complex organization and operation that it would be difficult to deal with them all.

Q. And it would be almost impossible to assess the dollar value of them, would it not?

A. That, again, I think would be difficult to assess because of the many bases from which you would have to work.

Q. It would probably require the wisdom of our friend Solomon. There is one other factor I wanted to make reference to in that comparison of the revenue of 1885 and today. It is possible that the revenues in 1885 were higher than they should have been; I am not saying they were, but that would be a factor that would have to be considered. Is that not so?

A. I would hardly think so.

Q. In making a comparison between the two average revenues per ton mile in the two different periods, the validity of that comparison would depend on whether the revenue was proper at the older period of time. If you started with a revenue per ton mile that was very much higher than it should have been in 1885, you would not suggest because costs have risen in the meantime that today's revenue per ton mile should be greatly in excess of that already high revenue?

A. Of course you are getting somewhat out of my field here, but as I understand it in 1885 competitive forces in transportation were free to work. Under competitive conditions are you suggesting that rates were

higher than they should have been under competition?

Q. I am not suggesting anything. I am saying that would have to be a factor to be considered if you were testing the validity of this comparison.

THE CHAIRMAN: Would you give us an idea of what you mean by higher than they should have been?

MR. SHEPARD: It is a rather broad generalization I am making.

THE CHAIRMAN: Is there not an obstacle known as the diminishing return level?

MR. SHEPARD: What I had in mind was that in 1885 there was very little competition so far as the railways were concerned. The only limit placed on the C.P.R., so far as regulation of rates is concerned, was that I think it was not to pay a dividend in excess of 10 per cent.

MR. CARSON: I don't know whether it would help my friend if I were to call his attention to page 27 of the appendix, which shows that for the year ending December 31, 1885, the rate of return on net railway property investment was 2 per cent.

MR. SHEPARD: They had the same trouble then that they have today.

(Page 13758 follows)

MR SHEPARD: I did not mean either to get into this myself or have the witness get into it in any detail, Mr. Chairman; I simply wanted to point out that in making a comparison between the two periods of time it would be necessary to know whether the starting period was a proper period to compare with the present as far as normality was concerned. I just asked Mr. Crump whether he would agree that that was a factor that should be considered. I am not suggesting that the C.P.R. made too much money then or they are not making enough now or anything else.

THE WITNESS: I think it should be considered, yes.

MR SHEPARD: Q. Well, that is all I wanted. Then there was one other thing that I wanted to put to you, Mr. Crump, on that paragraph. My understanding is that electric power rates are substantially less today generally -- this is a very general statement -- than they were when electric power was first introduced, and yet my understanding is that electric power profits have increased, presumably from increased efficiency. Would not the same factors be inherent in railway operation? Perhaps I should go on, if I have not made myself clear. What I am trying to point out is that it does not necessarily follow that because your revenue per ton mile has not gone up your net position should be any worse today than it was in 1885?

A. Well, I can only speak from some knowledge of the railway, and I think our net position is worse.

Q. It is, yes; but I am simply comparing the railway industry with the electric power industry; they have apparently, through increased efficiency -- I am not suggesting that the C.P.R. is not efficient, but their industry perhaps lends itself better to technological advances -- through increased efficiency and greater use of power they

have been able to cut their rates and still make more money than they did in the early days?

A. Yes; the greater use of power is one of the primary factors in that, I would imagine.

Q. Yes; and one of your primary difficulties is the loss of traffic to competing forms of transportation?

A. Well, it is not a basic difficulty; I would not describe it as a basic difficulty.

Q. You would not describe present-day truck competition as a basic difficulty of the railways?

A. It is a difficulty, yes.

Q. A very substantial difficulty?

A. A substantial difficulty, yes.

Q. Are you familiar with whether your company has got available any figures which would show the relationship of capital expenditure per ton mile year by year, or is that a question you would prefer to have me ask Mr. Liddy?

A. I have never seen that.

Q. You do not know whether this projected capital expenditure programme of \$400 million is expected to increase the capital cost per ton mile or whether it will result in a saving or reduction?

A. No, I do not.

Q. Now, on page 6, Mr. Crump, you started to read, as I have it marked, the second paragraph:

"To finance the additions and betterments . . ."
and so on. This question may be one that you would prefer to have me ask Mr. Liddy, and I will be glad to do it. Do you know whether the depreciation recoveries -- that is, the accruals to depreciation -- since your company instituted depreciation accounting have more than offset, or more than covered I should say, the capital expenses

of the company during that period?

A. No, I cannot answer that. I have not the information. I think Mr. Liddy would be the proper witness to ask that.

MR EVANS: Perhaps you would give us what you have in your mind, because there may be a little doubt---

MR SHEPARD: I think the question is fairly straightforward, Mr. Evans. I simply asked Mr. Crump whether the depreciation accruals year by year since the Canadian Pacific Railway adopted depreciation accounting covered or were equal to or more than the total capital expenditures during that same period.

Q. Then I wanted to ask you, Mr. Crump, whether the profits during that period, which is roughly from 1940-42 up to the present time, have gone largely to reducing the funded debt which had been built up during the twenties on the C.P.R.?

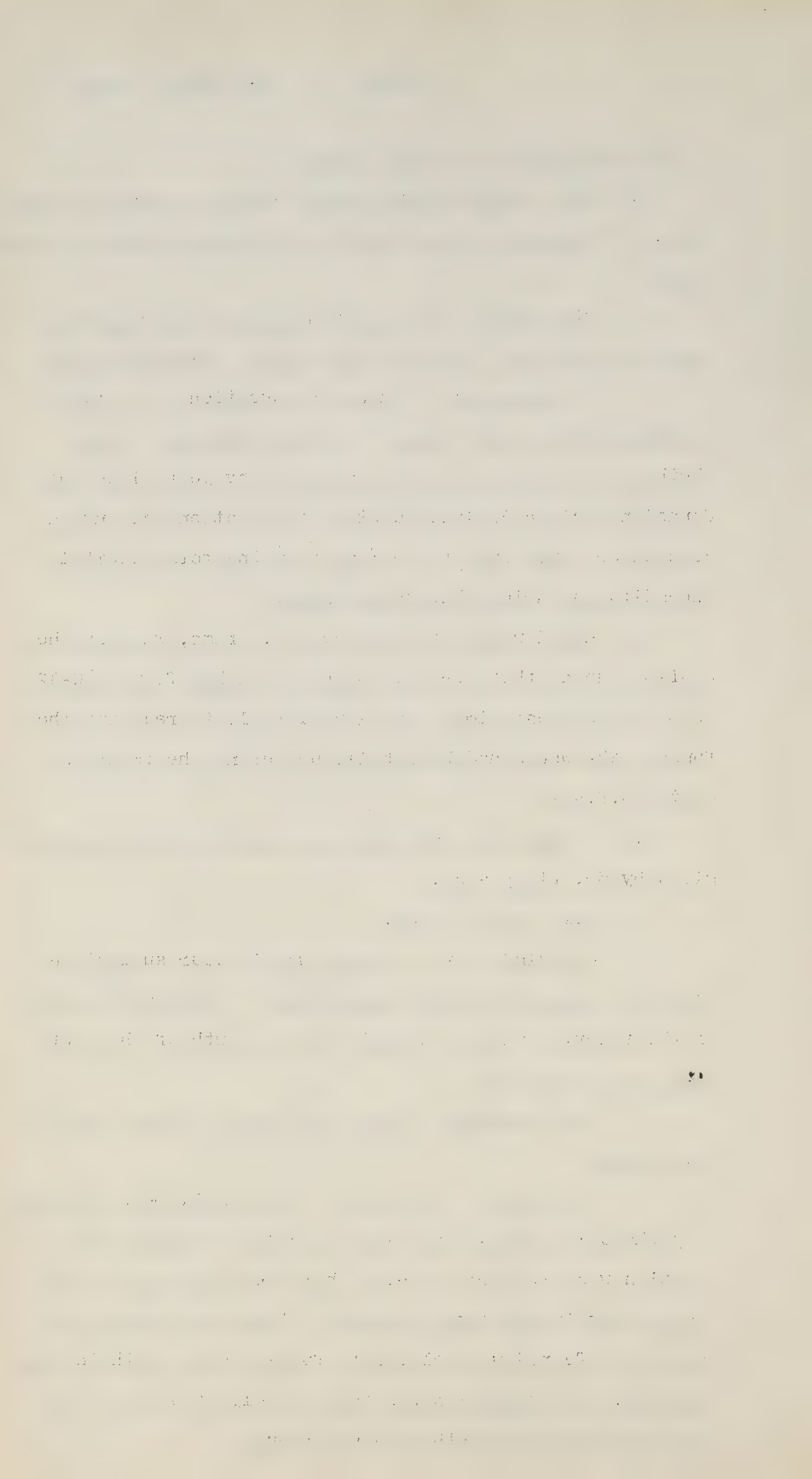
A. I think that information could more accurately be given by Mr. Liddy also.

Q. Well, that is fine.

MR EVANS: Mr. Shepard, was it your suggestion that the reduction in the funded debt made at the end of the thirties was in respect of the growth of the debt during the twenties?

THE CHAIRMAN: Would you speak a little louder, Mr. Evans?

MR EVANS: I am sorry. I was asking Mr. Shepard -- perhaps I did not hear him correctly -- whether his question was directed to this, that the reduction of the funded debt in the early forties or the late thirties to which he referred was related to funded debt growth in the twenties. My impression was that largely it was in the thirties that the growth became serious.



MR SHEPARD: Yes, that is quite correct, Mr. Chairman. I think Mr. Evans has reference to page 27 of the Appendix to Part I, which shows a column in the middle of the page enumerating the fixed charges of the C.P.R. year by year from 1885 to 1948, and it does indicate a substantial increase in fixed charges starting in 1930, and then they were reduced again during the forties.

THE CHAIRMAN: We will adjourn now.

---The Commission adjourned at 12:57 p.m. until 2:45 p.m.

AFTERNOON SESSION

Wednesday, December 14, 1949

MR. NORRIS R. CRUMP RECALLEDCROSS-EXAMINATION BY MR. SHEPARD(Cont'd)

Q. Mr. Crump, I wanted to direct your attention, if I could, to page 6 of Part I of the Canadian Pacific Railway Submission.

THE CHAIRMAN: Did you say page 6?

MR. SHEPARD: Page 6, sir, yes. Before the noon adjournment we were discussing the second paragraph on that page. The last sentence in the second paragraph reads as follows:

"The Company, from an early stage in its development, followed a policy of reinvesting, rather than distributing to stockholders, substantial portions of its net earnings."

You would agree, I suppose, Mr. Crump, that that policy was followed during a period of either low income tax rates or of no income tax. I think income tax was first introduced into Canada in 1917 and then following that up until the war the rates were not as high as they are today?

A. Yes, I think so.

Q. I was going to suggest that with the present income tax rates being what they are, that reinvesting earnings is rather an expensive way of acquiring new capital for a company today?

A. Well, we have not had too much to reinvest.

Q. I appreciate that, but I am thinking now of the possibility of using surplus earnings assuming that you are in the position of having them again sometime in the

future. Those surplus earnings are actually useable only after they have had the current rate of income tax paid on them?

A. That is correct.

Q. Then, over on page 7, Mr. Crump, the last paragraph on that page, the first sentence reads:

"While the era of branch line construction which ended in the late 1920's is not likely to recur, Canadian Pacific has a continuing need for funds to enlarge and improve its property in keeping with changing conditions."

Now, I suppose it would be perhaps only obvious that the spending of those funds would only be effected or made if a commensurate saving could be envisaged?

A. That is a basic assumption in that case.

Q. Then, on page 8, reference is made to the evidence which you gave in the 20% Case and I wanted to read to you one paragraph from page 14 of the Majority Judgment and invite your comment on it. It is the second paragraph under the heading "Contemplated Capital Expenditures". This is the Chief Commissioner's Judgment and it reads as follows:

"I do not believe that a railway may, on the basis of some management approved undertaking, appeal to this Board for an increase in rates. To accept this as a principal of rate-making would be requiring from the users of the services today contributions towards future facilities which may never be devoted to their use. Such matters - betterment and expansion of facilities, availability of capital, etc. - flow from just and reasonable rates; they do not determine just and reasonable rates."

THE CHAIRMAN: What page Mr. Shepard?

MR. SHEPARD: Page 14, sir, and it is the second paragraph under the heading "Contemplated Capital Expenditures". Would you care to comment either by way of agreement or disagreement with that paragraph, Mr. Crump?

MR. CARSON: I think I should remind you, sir, that we have suggested in other places that with all respect to the learned Chief Commissioner there was some misapprehension as to the purpose of the evidence to which he is referring in that paragraph. There was no suggestion when the evidence was tendered that the cost of these facilities should be borne out of higher freight rates. They were quite obviously capital expenditures, and the evidence was given for the purpose of showing the programme that was felt necessary in the future and the expenditure that was involved, and, therefore, since the only way the money can be raised would be by financing through the issue of further bonded indebtedness or equity capital, it was pointing to the need of restoring the credit of the Company so that they could do so; there was no suggestion on our part that freight rates were to bear this capital expenditure.

MR. SHEPARD: Let me limit my question to you, Mr. Crump, and just refer to the first sentence or even a part of the first sentence when the Chief Commissioner says:

"I do not believe that a railway may, on the basis of some management approved undertaking, appeal to this Board for an increase in rates".

Would you care to comment on that at all?

A. Well, my evidence before the Board on this programme was designed to indicate to the Board, as I understand it, the need for such improvements if we were going

to continue to give the service in Canada that we thought should be given.

Q. I take it then that your view is that the need for such expenditures is a matter entirely for management of the railway companies?

A. Yes, I feel so.

Q. You would not suggest that the Board of Transport Commissioners should have the power or the duty, let me say, of considering whether those expenditures have been necessary when they are deciding what level of rates to fix?

A. Well, in my opinion, the two things are synonymous. If the railway management through its years of experience and best technical advice that it can get makes these capital expenditures, unless they are very much at fault the Board would be bound to agree with them.

Q. But you would say that if they were very largely at fault that the Board -

A. There is always the possibility of human fallibility, but my own feeling is that the railways have a large and complex organization of skilled, experienced men, officers who, I feel, are best able to judge the need for such expenditures.

Q. Now, turning to page 9, Mr. Crump, I would like, if I may, Mr. Chairman, to ask Mr. Carson whether I understood correctly this morning that Mr. Newman is to give evidence later on?

MR. CARSON: Yes, that is right, Mr. Shepard.

THE CHAIRMAN: Mr. Newman is to give evidence?

MR. CARSON: Yes, my lord.

MR. SHEPARD: And I presume that his evidence will cover the method that he followed in developing this anticipated growth in revenue?

MR. EVANS: That, I may tell my friend, is already in the record of the Board, but it will be repeated.

MR. SHEPARD: I know it is in the record of the Board.

MR. EVANS: I thought that was to be treated as the record here?

THE CHAIRMAN: You mean the Board?

MR. EVANS: Yes, the Board of Transport Commissioners has the evidence to which my friend, Mr. Shepard, has reference, and he is merely asking whether Mr. Newman will be available to repeat that evidence. We did not propose to have him repeat it in detail in chief because the evidence is there and available.

MR. SHEPARD: But I wanted to know whether he would be available for cross-examination and I am told he will be.

MR. CARSON: Oh, yes.

MR. SHEPARD: Now, Mr. Crump, I would like to direct your attention, to I think it is, the fourth sentence under the heading on page 9 of "Expansion to Meet Growing National Requirements". The sentence starts with the word "consequently" and it reads:

"Consequently, Canadian Pacific is faced with a potential annual traffic growth of 450,000,000 revenue freight ton miles. This will necessitate enlargements of the railway plant. This, as Mr. Newman explained in his evidence in the 20% Case, does not mean that the increase in traffic due to increase in population will necessarily be imposed upon the present high traffic volume".

Now, I presume that all the way through this section of your material the assumption is that the railway facilities at the present time of the Canadian Pacific railway are being used more or less to capacity?

A. They are being used in some places close to capacity. On the system as a whole, we have handled more tonnage during the War than we are handling now.

Q. Is it your opinion that the Canadian Pacific could handle any substantially larger amount of traffic than it is now handling without increasing its facilities?

A. Not a substantial amount, but it could handle somewhat more.

Q. This 450 million revenue freight ton miles, I understand, is approximately 2% of your present actual freight ton mileage.

A. That may be so. I will take your word for that.

Q. That is what I am informed; and that would anticipate then an increase in traffic of ~~10%~~ over the next five years.

MR. CARSON: Last year, according to page 527 of the Appendix, in 1948, the revenue freight ton miles amounted to 25,218,400,000.

MR. SHEPARD: It would ^{be} slightly less than 2%, but not a great deal.

MR. SHEPARD: Q. I take it that one of the basic underlying factors in planning this capital expenditure programme is that your officers consider that traffic will increase in Canada.

A. I am looking forward to that, if the rate of population continues to grow as it has in the past. I think I have sufficient faith in the future of Canada that I may look forward to an increase of traffic on the Canadian Pacific.

COMMISSIONER INNIS: Q. Does this take into account the material put forward by the Canadian Freight Association as to the amount of traffic which will go to the trucks?

A. No. As I understand it, this was based on a long

term average.

Q. You were not taking into account that the trucks might be pulling some traffic away from the railways?

A. No, I do not think so.

MR. EVANS It is calculated on the absolute growth of population. I think it is a straight mathematical calculation.

MR. SHEPARD: Q. At page 10 of the Canadian National submission I would like to read to you two very short sentences:

"Traffic volume is not expected to increase in the immediate future. On the contrary, the anticipated trend is downwards."

Would the Canadian Pacific disagree with that?

A. Well, at the moment the present trend is downward slightly. There has been a slight falling off in traffic.

Q And the anticipated trend, you would say, is downward?

A. I do not know/^{that} that holds true. There are so many factors which enter into that problem that I do not feel qualified to speak about it; for example, international trade, and world-wide conditions will govern, I think, that matter. Personally I do not feel qualified to advance even an opinion on it at the moment.

Q. What I was leading up to was this: That if the level of traffic should drop, it is conceivable, and I presume you would agree with me, that the increased traffic due to increased population might just about offset the drop in traffic, so that you would not have the 2%, or whatever it is, increase in traffic each year that you are using, as one of the factors which is a basis for this calculation.

A. Yes, that is quite possible.

MR. EVANS: I do not think my friend has put it in the way that the brief puts it. The increase is not

superimposed on the present volume but on what may be considered to be the long term average, and the brief says so.

MR. SHEPARD: Yes.

MR. EVANS: I thought you were suggesting that we contended that the 2% was imposed on the present volume.

MR. SHEPARD: I did not consider myself bound in forming my questions by the Canadian Pacific brief.

MR. SHEPARD: Q. Turning now to page 10, the top paragraph of the Canadian Pacific brief, where I read:

"Canadian Pacific is confronted with the necessity for securing substantial amounts of new capital."

I wanted to put a general question to you as to what process you would go through in your thinking to arrive at a point where new capital became a necessity rather than just a desirability on the part of management?

A. The process in my thinking is exceedingly simple, I believe. As the operating officer who has to operate the railroad, I feel we have got to have new capital to get into the diesel programme and many other things, if we are going to continue to function efficiently and to increase our efficiency as the years go on. In other words, we must be a dynamic and not a static organization.

Q. The third sentence in that same paragraph reads:

"If the company cannot attract capital for these purposes, it will become sterile to the detriment of the nation."

Would you agree that the phrase "detriment of the nation" indicates that the welfare of the Canadian Pacific is inextricably bound up with the welfare of Canada?

A. The welfare of the Canadian Pacific?

Q. Yes.

A Is bound up with the welfare of Canada? Most decidedly.

Q. Would you agree that the primary responsibility of the Dominion Government is the welfare of Canada?

A. It is.

Q. Then going on a little further in the same paragraph I find this:

"The Company must be assured of a level of rates which will afford the Company a fair measure of net earnings each year, in order that its credit position may be restored."

I would like to ask you whether you consider a level of rates can insure a fair measure of net earnings? In other words would you recognize that it would be possible for rates to become too high to move traffic?

A. Oh I recognize that fact, yes.

Q. That y u might price yourselves out of the market, as the saying goes?

A. It is possible to do that.

Q So the level of rates does not actually guarantee any appropriate or inappropriate amount of net earnings?

A. Oh no. I do not think there is any guarantee involved at all.

Q. Then I take it from what Mr. Carson told me that Mr. Newman will be available for questioning on pages 11 and 12.

Now on page 13, at the top of the page, Mr. Crump, in the large paragraph you are referring to the additional expenses which will be incurred which will more or less offset the savings which will be made out of this programme in its initial years, and you say:

"First, interest charges on the additional capital investment, which for the purpose of the estimate

are taken at 4% on equipment (due to the ability to finance equipment on a lower basis than other borrowings and 5% on road property."

I assume you share the view which Mr. Walker expressed as to the suggestion that perhaps the Canadian Pacific might have Government guaranteed securities.

MR. EVANS: Where did Mr. Walker say that?

MR. SHEPARD: I asked Mr. Walker what he thought of Manitoba's view, and he said he did not think much of it.

MR. EVANS: The way you put your question would suggest that Mr. Walker was agreeing with the substance of the question.

THE CHAIRMAN: What is this reference on page 13?

MR. SHEPARD: The reference is to the cost of financing, and the paragraph starts at the top of the page as follows:

"The additional expenses involve primarily three general groupings."

And in the next sentence which I referred to, it makes reference to interest rates of 4% and 5%.

THE CHAIRMAN: The next sentence deals with interest charges.

MR. SHEPARD: Yes sir.

MR. SHEPARD: Q. I shall rephrase my question. I will make it as a statement rather than a question, and I am saying that you do not agree, any more than Mr. Walker did, with Manitoba's suggestion, that consideration might be given, if necessary, to obtaining Government guarantee of Canadian Pacific securities?

A. Your assumption is quite right.

Q. I wanted to ask you if this was done, and if Government guarantee was obtained, would it not quite obviously result in substantial savings on interest charges?

A. It might.

Q And also I think it is self evident that bond interest is an expenditure before Income Tax. Fixed Charges are an expenditure before Income Tax. But stock dividends are payable out of net earnings after tax. So common stock dividends are more expensive. I appreciate why they are necessarily paid, but if you are paying them, it costs the Company more than to pay bond interest, speaking tax-wise.

A. Only tax-wise, or the fact that it is not desirable to pay dividends?

Q I am simply pointing out that on a bond issue the interest is paid out of the Company's net earnings before Income Tax. Do you agree with me that far?

A. Yes.

Q. And common stock dividends are paid out of earnings after Income Tax?

A. That is right.

Q. So, assuming for the purposes of our discussion that you pay 3% on each; it actually costs the Company more to pay a 3% dividend than it does to pay a 3% bond interest?

A. Yes, mathematically I think that would be correct.

COMMISSIONER INNIS: Did you have in mind, Mr. Shepard, the parallel amounts paid on the Canadian National? Do you know what they would be?

MR. SHEPARD: I am afraid I do not.

COMMISSIONER INNIS: You did not think of them when framing your question?

MR. SHEPARD: No, but I am sure Mr. O'Donnell would be glad to provide that information.

MR. O'DONNELL: Last year on Government loans the average interest rate was 2.9%.

MR. COVERT: I wonder what figure that compared with.

For instance, there is the 4% on equipment. What would the comparative interest rates be that are paid on the Trust certificates of the Canadian Pacific and the Canadian National? I wonder if we are talking about the same thing?

MR. EVANS: That is quite true. This 4% does not mean that you could borrow money on equipment for less than 4%.

MR. COVERT: I think the record should be cleared up because people may be talking at cross purposes.

(Page 13782 follows)

MR. EVANS: I can put this much on the record. There may be witnesses we can get this from, but I certainly doubt that Mr. Crump has it in the back of his mind. I suggest if the evidence is looked at in the two rate cases it will be found there is a limit on the extent to which a company can -- I was about to say with propriety or safety -- reasonably be expected to go in borrowing on equipment trusts because equipment trusts are serial maturities, and once you get serial maturities equalling the current edition of the trusts you might just as well pay it out of pocket as you stand as to finance it. That kind of security carries a very low interest rate because its security is the equipment itself. When you come to finance a large program this 4 per cent and 5 per cent has no relation to any assumption that the whole program would be financed for equipment on equipment trusts and the balance on something else.

MR. COVERT: Five per cent on road property, for instance, might not mean that the bonds were paying 5 per cent interest either?

MR. EVANS: Not at all; this is a program of improvement, and the evidence we presented to the Board was that a large part of this should be done by equity capital, and that another part should be done by borrowing at fixed interest. This cuts across that, and it is for the purpose of estimating in the immediate future what the increased charges would be because of the increased capital that these figures have been taken. Mr. Newman, who will follow Mr. Crump, will be able to answer questions of that kind as to why he took these figures in his estimate. I am just trying to be helpful.

THE CHAIRMAN: It seems to me all that Mr. Shepard

is trying to do now is establish that if the Government guarantees your flotation you will get a lower rate of interest. That goes without saying.

MR. EVANS: I should think so.

MR. SHEPARD: Perhaps it does. It has been said now.

Q. Then, Mr. Crump, on page 14, I think it would perhaps be preferable if I asked Mr. Liddy about it. In the third line from the top of page 14 reference is made to an item of \$3 million increased depreciation charges after the program is under way. Would you prefer me ask Mr. Liddy about it?

A. I think Mr. Liddy would be the proper man to answer that question.

MR. EVANS: As a matter of fact, that is also a part of Mr. Newman's estimate, and while Mr. Liddy will be able to answer all questions about the depreciation, this is Mr. Newman's study, and he will be able to explain why he took these figures.

MR. SHEPARD: Q. Would you agree, Mr. Crump, that maintenance charges always increase with capital expenditures? If you embark on a program of more than usual dimensions so far as capital expenditures are concerned, would you expect your maintenance charges to rise?

A. I do not think one can make a general statement to that effect because it would depend to some extent upon the nature of the capital expenditures being made.

Q. Can you think of any capital expenditures, other than replacement of worn out work capacity, that would not result in additional maintenance costs?

A. Additional maintenance costs immediately the capital expenditure is made?

Q. Yes.

A. Not over a long range point of view, no, I do not think I could.

MR. EVANS: There is a great difference; if you would ask these questions of the proper people --

MR. SHEPARD: I am quite willing to ask them of the proper people. If Mr. Crump would prefer not to answer them all he has to do is to tell me.

MR. EVANS: Maintenance accounts and maintenance charges are really accounting questions.

MR. SHEPARD: As an operating man I think Mr. Crump would have some idea that a capital expenditure would result in a rise in maintenance costs in the operation of the railroad.

MR. EVANS: I do not think you can generalize on these things. That is my point.

MR. SHEPARD: Q. On page 15, Mr. Crump, the fifth line from the top of the page, this sentence appears:

"It must be borne in mind that after the end of the five-year period the probability is that a continuing cycle of improvements will be necessary." Perhaps I should ask this of Mr. Newman as well, but do you know whether any studies have been made by the C.P.R. about the continuing cycle of improvements, or what they involve --

A. We have made some study of a period beyond the five-year period, but it is very difficult to say as to that now. Conditions change so rapidly, but we have looked at it.

Q. Have they been reduced to a dollar basis?

A. We had some studies on that, but they were rather incomplete, and I do not think they would be of any use.

Q. So you would not know at this moment whether they

would run in on a dollar cost per year at a higher figure than your annual depreciation of equipment?

A. I would say that is impossible to say at this stage.

Q. Then I should like to turn^{to} paragraphs 22 and 23, towards the bottom of page 15. You make reference to the ratio of net to gross earnings, and I think Mr. Carson told me Mr. Liddy would deal with paragraph 22. I think you read paragraph 23, which states:

"-- a reasonable ratio between net and gross earnings must be provided."

I wonder if you would express your opinion as to what a reasonable ratio is?

A. There again I am not well qualified to speak, but I certainly feel that the ratio of net to gross earnings in 1948 of 5.18 is too low, but just what that figure would be I cannot say. I know that is too low.

Q. If you make the statement that it is too low you must have some figure in mind that would be about right. It is too low by how much?

A. I know that any figure I might place on that certainly would be a mere guess on my part.

THE CHAIRMAN: Can anybody place a figure on it that will not be a mere guess, on behalf of the railway, because we would like to have this. It is no use wasting time if somebody else is better qualified technically to deal with this paragraph.

MR. EVANS: I am sure we will have others who can answer the question.

THE CHAIRMAN: Pardon?

MR. EVANS: I am sure we will have others who can answer the question.

THE CHAIRMAN: There is no use having guesses.

MR. EVANS: I suggest the question cannot be answered as a generality. For example, this ratio of net to gross earnings is the reciprocal of the operating ratio, and the operating ratio depends on your volume of traffic. You might be able to get along with an operating ratio of 80 or 85 with a certain volume of traffic, but if your operating ratio is still 80 or 85 with half that volume of traffic, you have a very different situation to meet. How anybody can say what an operating ratio should be flat on any general hypothetical conditions, I do not know.

THE CHAIRMAN: Mr. Shepard, are you satisfied with what Mr. Evans has said?

MR. SHEPARD: Mr. Evans gave me exactly the answer I wanted, Mr. Chairman.

THE CHAIRMAN: Apparently the company has divided up the work of explaining the brief, and as soon as we are told that somebody else is prepared to answer the question we had better proceed.

MR. SHEPARD: I quite agree, Mr. Chairman.

Q. At the top of page 16, Mr. Crump, paragraph 25 reads:

"Canadian Pacific submits basic economics supports the proposition that the cost of rail transportation, including the wages of capital as well as labour, should be borne by the traffic which moves over the railway."

Should I direct questions on that paragraph to you or to somebody else?

A. In my opinion that is the case, but I am not an expert on economics, and I think the development of that should be left to somebody else.

THE CHAIRMAN: Who will deal with that, Mr. Newman?

MR. EVANS: No.

THE CHAIRMAN: I do not know.

MR. EVANS: To me that is one of those basic statements; it is an assertion, but we will have an economist available.

THE CHAIRMAN: It is an argument.

MR. EVANS: In effect it is an argument.

THE CHAIRMAN: The statement is that "basic economics supports the proposition". Who can tell you whether it does or not, whether basic economics does support it?

MR. SHEPARD: I think there can be a fairly fruitful discussion out of that short paragraph.

THE CHAIRMAN: Of course I have my own means of finding out here.

MR. SHEPARD: I will not pursue it further.

COMMISSIONER ANGUS: Will this point not be dealt with in the argument about subsidies?

MR. EVANS: I suppose it will. It must inevitably come into that kind of argument.

MR. SHEPARD: Q. Mr. Crump, I want to refer next to a question and answer between Mr. Covert and Mr. Walker in yesterday's transcript. It is Volume 65, page 13639-A. Again I appreciate that you are an operating man, but I wanted to discuss briefly with you this matter, because you are also a director of the company. Towards the bottom of the page Mr. Covert had been discussing the matter of a rate base with Mr. Walker and he put this question:

"Q. I say that once you had established that principle" --

That is the principle of fixing rates on a rate base, and a rate of return method.

-- would it not make it much easier in future rate applications?

A. You mean applications for horizontal increases or reductions?

Q. Yes.

A. I should think it might, yes, facilitate it very greatly."

I wanted to suggest to you, Mr. Crump, that the fixing of a rate base would not have any material effect in assisting the determination of general rate cases. My reason for making that statement is that when the railways come to the Board of Transport Commissioners asking for a rate increase, a major portion of the time spent by interested parties and the Board is inquiring into the expenses of the railways. You would agree with that?

A. No, I do not agree with that.

Q. I am only referring to the last two cases. Let me put it to you this way. Before either requirements or a rate of return are allowed, the railways come in with a financial case showing total revenues and total expenditures. That is the starting point. Then the Board of Transport Commissioners and interested parties represented before the Board spend a good deal of time, or have in the last two cases spent a good deal of time in looking into the expenses as presented by the railways?

A. Yes, I agree with that.

Q. So that is one large piece of work that has to be done on the rate case?

A. Yes, I should imagine so.

Q. Then following that let us assume that a rate base has been established, and it still remains for the Board to fix a rate of return on that base. My suggestion is that if that were done no board regulating railways in

this country would fix a rate of return without regard to the requirements as we have come to know of them of the railway in question.

(Page 13792 follows)

In other words, the mathematical result of applying the rate of return to the established rate base would of necessity have to bear some relationship to the requirements of fixed charges, dividends and surplus of the railway that was being used as an example?

A. Yes.

Q. You agree with that?

A. I do.

Q. Now, Mr. Crump, I think I read in the paper recently that you had personally taken delivery of some new diesel locomotives?

THE CHAIRMAN: Had taken what?

MR SHEPARD: Q. Delivery of some new diesel locomotives on behalf of the C.P.R.?

A. I did not personally take delivery; I was present when the first one was turned out.

Q. You did not drive them away yourself. I presume those were financed by equipment trust certificates?

A. I presume they have been.

Q. Have you knowledge of the rate of interest called for by those?

A. No, I have not.

MR SHEPARD: I am sorry to be so long, Mr. Chairman, but I want to try to eliminate any questions that I should more properly ask of Mr. Newman or Mr. Liddy.

I did have some other questions, but I think I will ask them of another witness. I think that is all, thank you.

THE CHAIRMAN: Next.

MR SHEPARD: Mr. Chairman, just before Mr. Frawley starts, I wondered if the C.P.R. could supply to us sometime between now and the end of January a list of who their witnesses will be and exactly what portions of

the brief will be covered by them. I appreciate the difficulty that my friends have had this week, but I think it would expedite and assist us, and perhaps the Commission as well, if we did have a fairly detailed breakdown before we resumed.

MR CARSON: I did write Mr. Frawley a letter about two or three weeks ago telling him who our witnesses would be as far as we know them, and indicating what subjects they would deal with; but, quite frankly, it is sometimes the very last minute before we can get down to saying that they will deal with a particular paragraph or anything of that kind.

THE CHAIRMAN: Are all your witnesses here now, for instance?

MR CARSON: Oh, no, my lord.

THE CHAIRMAN: If they were all here you could just ask the question and let the proper witness answer it.

MR SHEPARD: If we had the whole team all at once.

THE CHAIRMAN: Well, Mr. Carson has just said that he wrote to Mr. Frawley.

MR CARSON: Yes, I did.

THE CHAIRMAN: Do you find the arrangement Mr. Carson proposed in his letter satisfactory to you, Mr. Frawley?

MR FRAWLEY: I won't say it was not satisfactory. It was very brief; it was as much as Mr. Carson could do. He simply said, "I would like to tell you that the following witnesses will deal with the following subjects: Mr. Walker on general matters, Mr. Walker and Mr. Crump on general matters, Mr. Jefferson on traffic matters, Mr. Liddy on accounting matters, and Professor McDougall on economic matters." I think that is roughly what he told me.

THE CHAIRMAN: There is a Mr. Newman coming too?

MR FRAWLEY: I do not know whether Mr. Newman was mentioned; he probably was mentioned.

THE CHAIRMAN: We have been told that Mr. Newman would answer certain things.

MR FRAWLEY: That was the only particularity Mr. Carson gave me, and I do not know whether he can do any better.

THE CHAIRMAN: Is there any reason why Mr. Shepard should not be given the same information?

MR FRAWLEY: Oh, no; Mr. Carson probably assumed---

MR CARSON: I did. I was communicating with Mr. Frawley on behalf of all counsel.

MR SHEPARD: I have that material, Mr. Chairman. The only thing I am now asking is if the C.P.R. could give us a sectional breakdown of their actual brief, and say Mr. Newman will deal with pages so-and-so and so-and-so.

THE CHAIRMAN: On the other hand, Mr. Shepard, does it matter to you who answers your questions, so long as you know somebody is going to be there?

MR SHEPARD: Oh, if they are all here at once, that is fine, sir.

MR CARSON: We are pretty careful as we go along to indicate.

MR SHEPARD: I did not mean to cause a disturbance by making this suggestion.

THE CHAIRMAN: Of course, we will have to see that proceedings do not come to an end with some of your inquiries unanswered because nobody came along who was able to answer a certain thing. You will take very good care that does not occur, of course.

MR CARSON: Just as we have been trying to do

today -- indicate as we go along that someone is going to deal with this, and someone is going to deal with that. But my friends may be assured, if there is any particular aspect of the matter about which they want information or want to have witnesses here, we are only too ready to make them available.

THE CHAIRMAN: Well, we will rely on that.

CROSS-EXAMINED BY MR FRAWLEY:

Q. Mr. Crump, I must confess that I have had a little difficulty in appreciating the setting in which your evidence is being given. Now, could you help me out about that? You have told us pretty well the story that you told the Board in the 20% Case; isn't that right?

A. Yes, pretty much the same story.

Q. And the purpose of the evidence in the 20% Case was to indicate that you had difficulty in raising moneys to carry out this improvement and expansion programme?

A. Yes.

Q. It was not entirely unrelated to the then pending proceedings before the Board, was it?

A. No, I would say not.

Q. No. As a matter of fact, looking at page 1387 of the proceedings in the 20% Case, I find my friend Mr. Evans saying:

"Now, bearing in mind that the Board has said in the 21% judgment that the railway property is entitled to earn \$52,322,000, we are going to ask this Board when it is reviewing the old judgment to look at that judgment in the light of a fair return on the investment, and all of this evidence therefore will accordingly fit into a picture by which the

necessity for establishing the credit of the company will be shown."

In other words, as you said a moment ago, that evidence was not being given purposelessly or in a vacuum before the Board?

MR EVANS: Ask us that question.

MR CARSON: I am afraid we must take responsibility for evidence that is tendered, rather than the witness.

MR FRAWLEY: That is all very well, my lord, but, with due respect, I won't be brushed off that way.

THE CHAIRMAN: I beg your pardon, Mr. Carson?

MR CARSON: I say that we as counsel must take responsibility for the evidence presented to the Board and the purpose of the evidence. I do not see how you can cross-examine a witness as to what purpose there was.

THE CHAIRMAN: So far as we are concerned here, we are looking for information now. It is not a case of somebody winning a suit.

MR FRAWLEY: No, no; that is quite true. Mr. Crump is not an automaton; he can tell us why he is here, and why he was brought before the 20% Case.

MR CARSON: No. That is the very objection I take. Mr. Crump cannot tell why we as counsel brought him here. We will tell, or he can be asked about any evidence he gave.

THE CHAIRMAN: What you have just read is evidence Mr. Crump gave, is it?

MR FRAWLEY: No; that is Mr. Evans' statement when the Chief Commissioner asked him why this evidence was tendered. The Chief Commissioner asked my friends why Mr. Crump's evidence was tendered before the Board.

THE CHAIRMAN: Then you are reading to us---

MR FRAWLEY: What Mr. Evans said.

THE CHAIRMAN: ---what counsel said.

MR FRAWLEY: That is right, sir.

Q. Now, let me ask you a few opening questions, Mr. Crump, that I should have asked you a moment ago. You are the Operating Vice-President of the Canadian Pacific?

A. Yes, that is correct.

Q. In other words, the senior Vice-President?

A. That is correct.

Q. It is very proper to say that you are certainly not less than the No.3 man in the company?

A. I suppose you would put it that way.

Q. The Chairman of the Board, the President, and then Mr. Crump?

A. That is right.

Q. You say that you need a lot of money to carry out this programme of improvements and of expansion?

A. Yes.

Q. And it is related to freight rates in some way, isn't it, Mr. Crump?

A. Most decidedly.

Q. How is it related to freight rates? Perhaps I should ask you, rather than tell you what I suspect.

A. Well, I feel that in one form or another eventually the means of getting this money must come from freight rates.

Q. Now, I wonder if this does not state the matter pretty completely; I am reading from the Annual General Meeting of Shareholders of the Canadian Pacific held on the 4th of May, 1949; you were probably present?

A. Yes, sir.

Q. Now, I read this paragraph;

"Since 1930 your company has had the authority

of Parliament to increase the ordinary stock from \$335,000,000 to \$500,000,000, but it has not been possible to offer any additional stock to the public because of the discount at which the stock is bought and sold in the open market. It is highly important that this situation be corrected without delay to enable your company to obtain a proper proportion of its capital requirements by the sale of equity securities and to obtain its debt capital on reasonable terms."

That is really the difficulty, isn't it, Mr. Crump?

A. As I see it, yes.

Q. More than anything else that is the difficulty?

A. As I see it.

THE CHAIRMAN: Am I right in saying this, that the desire is to have the market value of the stock increase so it can be sold?

MR FRAWLEY: That is exactly right; that is their contention.

Q. Now, Mr. Crump, the par value of the stock---

THE CHAIRMAN: I suppose you would go about that by inspiring confidence in the stock and in the company to the buying public.

MR FRAWLEY: Yes, I suppose that is the idea.

Q. Now, Mr. Crump, the stock is now selling at 17 ?

A. Yes.

Q. And the par value is 25?

A. 25.

Q. And the freight rates have not reached the point yet, or are hardly near it, where you think they should be; that is true, isn't it?

A. I think they should be more than they are.

Q. Yes. Well, I think Mr. Walker used some adjectives

during the last two days, that perhaps you would not mind using; I do not remember what they were, but he indicated that they were far from where they should be, as he thought?

A. I quite agree with that, bearing in mind the fact, of course, that was brought up a little earlier here, that you can always reach a point at some distance where you drive traffic away from the railway; but we are far, far from that point yet.

Q. So that the stock now selling at 17, about 70% of its par value, you think that it should go back to par; then you could start---

A. I would like to see it; I would like to see it at par.

Q. Well, yes, you would like to see it at par. It should go back to par before you can realize the suggestions made to the meeting of the shareholders on the 4th of May last?

A. As I understand it, it must go back to par before we can realize that.

Q. That is right. So that is the point; now it has got to go back to par?

A. Yes.

Q. We are at 70% of par now, and I want to know, Mr. Crump, as senior Vice-President of this company, do you expect the freight rates to put this stock back to par?

A. I would certainly like to see it.

Q. Now, did the freight users, especially in Western Canada -- because I am concerned with them -- did they put the stock down to where it is?

MR EVANS: Oh, Mr. Frawley!

MR FRAWLEY: Now, my friends can sigh all they like.

Q. Mr. Crump, did the users of the freight department

in Western Canada put the stock down where it is?

MR CARSON: We just laugh.

MR FRAWLEY: Well, you can laugh; that is of little concern to me.

THE WITNESS: They might have contributed to that.

MR FRAWLEY: Q. How did the farmers of Alberta contribute to putting that stock below par? My friends may not think that is important. I would like very much to have your opinion; I value it infinitely more than I do theirs. Tell me, Mr. Crump, tell me?

A. Well, as I see it, if freight rates had been raised in proportion to other increases--and the farmers in Alberta have protested that raise very vigorously--then our stock might be at par, and that is the part which the Alberta farmer has had in the entire matter.

Q. Where was it when we started to protest? I think it was about the 9th of November, 1946. Where was it then?

A. I could not say, sir.

Q. It was then a little lower than it is now?

A. Quite possible.

Q. In spite of our protesting, it has come from about 13, I think -- and I am just guessing -- to where it is now at 17, since we have been protesting; that is a fact, isn't it? (No answer).

Q. So that during all those years that you did not ask for an increase in freight rates, is when that stock went to where it is -- it was about half of par, and now it is up to about 70%?

A. Well, we could not ask for an increase.

Q. No, but, seriously, do you put the blame for the place of the stock of the Canadian Pacific Railway, the market place of the stock, do you lay that at the door of the farmers of Alberta?

A. Not at the door of the farmers of Alberta.

Q. Then why should he be the one to put it back up?

A. He should contribute in whatever measure he obtained service from the railway, in my opinion.

Q. Yes, but I am talking about this central problem of yours, namely, the low market value of the stock; that is the central problem keeping you from your programme of development and expansion. Now then, were there not other factors that put that stock down? Don't you think so?

A. I would hardly think so.

Q. There were not other factors. Perhaps you did not understand my question.

A. No, perhaps I did not.

Q. I mean other factors than the day-to-day life and use of your system by the farmers of Alberta. What put the stock down?

A. Well, the fact that we were not earning, as we felt it, a fair return on our investment.

Q. Oh, yes, but there were many, many things -- the depression, the great depression of the thirties?

A. Oh, yes, back in the thirties, certainly.

Q. Certainly. Now, when other factors than can be attributed to the users of the railway put the stock down, and that is the central part of your problem, why don't you try to bring the stock back by appealing to these other factors?

A. To whom do you mean?

Q. Well, I don't know. Maybe there is something wrong with the national policies that you are suffering from?

A. Well, I think you are covering quite a bit of territory there, Mr. Frawley.

Q. How much of it do you think you can cover, and

help me out, as to where the other places are, that you might put the value of the stock back up rather than expect the freight payer to do it all?

A. Well, personally I may not be of much help to you, because I think the freight payer, the man who obtains the freight service, largely has to bear that.

Q. Has to bear what?

A. That the Canadian Pacific obtain a rate for its service commensurate with the service rendered.

Q. Oh, yes, with the service rendered; but we are not talking about that. You say the central problem is to put the stock back to par?

A. That is right.

Q. Now, you say you want freight rates to do that?

A. I want freight rates that will increase the earnings of the company to the point where we can logically look forward to that situation taking place.

Q. Well, that is true, but you look forward to that when the stock has gone back to par, and you want the freight shippers to put the stock back to par?

MR CARSON: I do not like to object to this, but it is rather an unfortunate thing to be reaching the press, just the way in which some of these questions are put, because it is really not accurate to talk about the freight payer putting the stock up or down.

MR FRAWLEY: Well, I am not going to stop to argue the point, my lord, but that is precisely what the Canadian Pacific Railway is asking -- just precisely -- that can go in the press or otherwise. My friend should not be so concerned about the press; he is getting a good press these days, getting quite a good press. He should not be so sensitive.

MR CARSON: Just the inaccuracy.

MR FRAWLEY: It is not even inaccurate, my lord. I am particularly serious about it. Dr. Dorau told us that in the 20% Case, and it must be so. Mr. Crump is telling us now the stock must go back to par, then the equity capital can be sold, then the money will flow in and the expansion programme can proceed.

THE CHAIRMAN: Supposing that is all true, then what?

MR FRAWLEY: I say that should not be the concept at all; that should not be the objective of the freight rates at all. Let us pay for the service we get, without any regard at all to the capital structure of the company, that is all.

Q. Mr. Crump, why don't you go to Parliament and get relief---

THE CHAIRMAN: You must then have your own measure of the value of the service.

MR FRAWLEY: The value of the service?

THE CHAIRMAN: Yes.

MR FRAWLEY: No.

THE CHAIRMAN: I mean, you must have some way to measure it. If you say it is independent of the company's investment, what ought it to depend on?

MR FRAWLEY: It should enable the company to earn a rate of return, probably.

MR CARSON: A fair rate of return.

MR FRAWLEY: Yes. The rates must be fair and reasonable; no one in the provinces ever---

THE CHAIRMAN: I am asking you that because we may have to face that question before we get through here -- what should be the measure in the fixing of freight rates?

MR FRAWLEY: It is very difficult.

THE CHAIRMAN: But, since you dispute the one

that is put forward, I was wondering whether you have one to substitute for the one you are knocking down.

MR FRAWLEY: It must be a fair and reasonable rate, and those are very nebulous words, my lord.

THE CHAIRMAN: We have heard them before.

MR FRAWLEY: Yes.

THE CHAIRMAN: You get no further.

MR FRAWLEY: That is true, that is true. I am not seeking to make progress exactly, my lord; I am endeavouring to meet this proposition that has been put up and that seems to be insisted upon, that because the capital stock is half of par something must be done to put it back.

THE CHAIRMAN: Well, I am only hoping that your criticism is not only destructive but constructive.

MR FRAWLEY: Oh, I appreciate that, yes.

Q. There is another aspect of this, Mr. Crump. You say that by virtue of the authority that you have received from Parliament the stock must be at par before it can be offered to the public?

(Page 13808 follows)

A. That is correct.

Q. Now, that is a condition of the authority that you get from Parliament?

A. As I understand it, yes.

Q. Well, the report of the shareholders uses the expression "the authority of Parliament", so I put it to you, Mr. Crump, that you might get the authority of Parliament to permit you to offer it for sale at less than par?

THE CHAIRMAN: You mean to say all you have to do is ask for it? That does not follow on that?

MR. FRAWLEY: It does not follow that they would get it by asking for it but they could ask for the authority?

A. Not to my knowledge.

Q. You are satisfied to wait until it comes back to par?

A. I think that is a contingent stipulation in the allowance.

Q. That is true, but that might be changed. You say you are in a strait-jacket because you cannot sell this common stock, but I would think your principal objective would be to devise ways and means of enabling you to sell common stock. That is a fair question, isn't it?

A. No, I would say our principal objective is to earn a fair rate of return on our investment.

Q. How about the sale of common stock? Isn't that pretty important to you?

A. It will be yes.

THE CHAIRMAN: Well now, we will take a few minutes off.

. . . RECESS

THE CHAIRMAN: We were wondering Mr. Frawley, whether you in turn are addressing your questions to the right

witness?

MR. FRAWLEY: Am I sure that I am directing my questions to the right witness, you ask?

THE CHAIRMAN: Yes, or perhaps somebody else who could deal better with the subject you are dealing with?

MR. FRAWLEY: I do not think so, because we do have the advantage of having a senior officer.

THE CHAIRMAN: What do you say Mr. Evans?

MR. EVANS: Mr. Walker answered questions on this subject yesterday about the inability to sell stock and why he would not sell stock at less than par even if he had the opportunity.

THE CHAIRMAN: Are you quite content to have Mr. Crump deal with this?

MR. EVANS: Mr. Crump knows about it.

THE CHAIRMAN: It is to avoid going over the same ground twice. That is what I had in mind.

MR. EVANS: We felt that Mr. Walker had largely dealt with this matter yesterday.

THE CHAIRMAN: He did, of course, but Mr. Walker is gone.

MR. EVANS: But Mr. Frawley could have cross-examined him yesterday.

MR. FRAWLEY: Of course I could. I did not suppose that one had to ask all one's questions of one witness. Mr. Crump, you do then have faith in the rate of return which will pull you out of your troubles?

A. Yes, I have considerable faith in it.

Q. But you have not any assurance that a fair rate of return even one you might be allowed to name yourself would necessarily put your stock back to par?

A. There is no guarantee, I don't think.

Q. There are many, many utilities in this country and in the United States which are earning what is considered to be a fair rate of return fixed by a regulatory body and the stock is not at par?

MR. EVANS: Where?

THE WITNESS: I don't know of any, no.

THE CHAIRMAN: You are stating that as a fact?

MR. FRAWLEY: No, I am asking the witness. I cannot ask the witness very much, my lord, because either Mr. Carson or Mr. Evans is answering all the questions in advance. That is quite unfair.

THE CHAIRMAN: My concern is this. You say there are many companies?

MR. FRAWLEY: It was a question, my lord.

THE CHAIRMAN: Well, do you know anything about that, Mr. Crump?

A. No, I am afraid I do not, sir.

MR. FRAWLEY: You would not say that you would be surprised if you found in looking over the utilities in Canada and the United States that you would not find a utility that had a fair rate of return and its stock was under par? There is nothing amazing about that?

A. I have no knowledge about it, though, Mr. Frawley.

Q. There, my lord, I get the answers whether I like them or not. I am not at all worried about my friends but sometime sooner or later, I think, my friends, the Canadian Pacific counsel will have to try and let opposing counsel cross-examine witnesses - sometime; I don't know when, but I think it would be hoped for. Now then, Mr. Crump, if the rate of return was high enough, then the freight rates would

have to go up. With the rate of return the freight rates would go up?

A. I would think so.

Q. And then you might lose business?

A. Well, we might but they would have to go up considerably, in my opinion, before we would.

Q. That is a matter of speculation, isn't it? The United States railroads are losing a lot of traffic to trucks because rail rates are too high?

A. In some localities, I understand.

Q. And with some commodities?

A. Correct.

Q. And if you lose business, of course, because you put your rate of return up high enough and the freight rates up high enough, then of course, you would be worse off than you were when you started?

A. We would be defeating our own purpose.

Q. Certainly. Now, Mr. Crump, I have only got a question to ask you about your dieselization. If your dieselization plans are fully implemented what is going to happen to the bituminous mines in the Crow?

A. Well, I can tell you what is happening now. I am on a little sounder ground than I was a moment ago. In the first instance, the complete dieselization of the Canadian Pacific is something that I cannot look forward to because we have some 1830 locomotives, and it would take many, many years to completely dieselize all of the lines of this company, but we are burning Alberta oil in the Crow's Nest territory now.

Q. Right through the mining camps?

A. That is right. As a matter of fact, which is interesting, I was in those Crow's Nest mines a few months ago and

three of the operators of the coal mines admitted to me that they were using diesel engines in their mining operations, but what is actually happening is that we are taking more Canadian coal this year than we took last year, and that coal is being used further east. That is what is happening at the moment.

Q. You are hauling Crow's Nest coal east and displacing American imports?

A. That is right.

Q. Is the same thing happening on the Crow's Nest branch of the Canadian National?

A. I do not know about the Canadian National.

Q. The oil that you burn in your steam locomotives, the amount per unit is greater than it will be when you are using diesels?

A. Yes, but I think we should remember, Mr. Frawley, that we are operating a useful service as well as obtaining an economy by burning that oil because the refining of white products for consumption on the Prairie is governed, to some extent, by the ability for disposing of the heavy bases and the Canadian National and ourselves are providing the market for that disposal.

Q. Is all your oil in your own diesels coming from the Alberta fields?

A. In the west, yes.

Q. But on the Schreiber sub-division?

A. Well, of course we have not got any on the Schreiber yet.

Q. How soon are you going to put diesels on there?

A. We should have diesels on there by next fall, and if the pipe-line is completed and refined products are transported east on the lakes, then the probability is we will be

using Alberta oil.

Q. You would be taking it from the end of the pipe-line then instead of bringing it o.c.s. yourself from the west?

A. The probability is that we would be taking it from the end of the pipe-line.

Q. Mr. Crump, as a member of the Board of Directors of the Canadian Pacific, has any decision been reached as to when the Deferred Maintenance Fund is going to be drawn upon?

A. Not as I recollect it in the Board of Directors, but we are drawing on the Deferred Maintenance Fund.

Q. You are drawing upon it now?

A. Yes.

Q. Have you passed the stage, then, when you are waiting for the completion of normal maintenance before you use the Deferred Maintenance Funds?

A. This year.

Q. This year you have exceeded normal maintenance and you have drawn in this year, 1949, upon the Deferred Maintenance Fund?

A. That is correct.

Q. To how many millions? Can you tell me roughly?

A. Yes sir - seven and a quarter million.

Q. This year that you have taken out of the Deferred Maintenance Fund?

A. That is right.

Q. Thank you, Mr. Crump.

- - - - -

CROSS-EXAMINATION BY MR. BARRY:

Q. Mr. Crump, does your Company have a policy with respect to the installation of electrical signal devices at

crossings - some organized policy?

THE CHAIRMAN: Would you repeat your question, please?

MR. BARRY: I asked Mr. Crump if his Company had some policy with respect to the installation of electrical signal devices at crossings?

A. Well, we install them as ordered by the Board.

Q. Do you make recommendations yourself or wait until the Board orders it?

A. When the Board orders it.

Q. Only then?

A. As far as I know.

Q. Do you have any statistics as to the number of people killed at crossings or injured last year?

A. I think perhaps I have. In 1948 on the Canadian Pacific there were 21 people killed at urban crossings and 46 at rural crossings.

Q. And injuries - have you any figures available there?

A. Injured at urban crossings 80 and at rural crossings 111.

Q. Now you do admit that the Company has some responsibility toward protecting these crossings?

A. I think they have some responsibility, but I feel, as outlined here, that it is not our primary responsibility.

Q. You read, Mr. Crump, in the Brief at page 139 of Part I the submission made by your Company, that because highway traffic has increased, it is incumbent upon the provincial and Dominion officials to protect the public from your train. Is that what you mean?

A. I feel that.

Q. You mean that a company with a private right-of-way crossing a public highway can put the onus on the public

to protect themselves from a private company's trains?

A. I think so. As a matter of fact in the way in which you phrase that question had you ridden locomotives to any great extent in this country or others you would be amazed at how little interest the public has in its protection.

- - - - -

(Page 13818 follows)

Q. I appreciate that, but you have told us of the number of people killed and injured?

A. That's right.

Q. And you have said that you feel your Company has no responsibility to protect these crossings?

A. Our responsibility is delineated by the Board.

Q. But you do have a responsibility to try to avoid them?

A. We would try to avoid them, yes.

THE CHAIRMAN: I am not talking now of any common law; but is there any statutory law imposed that you must give signals?

MR. EVANS: Yes, Mr. Chairman. The Act provides for whistles and bells, and it also provides that the Board may authorize special protection at crossings. And it is under these sections that the Board orders special signal protection, as Mr. Crump says.

MR. O'DONNELL: Section 252 and following of the Act are a whole array of provisions.

THE CHAIRMAN: I remember that in all these cases of accident on the highways, where the railways are the defendants, they all go on the question whether the whistle was blown or the bell was rung.

MR. BARRY: I was saying to Mr. Crump that I was surprised at the attitude of the railways, and Mr. Crump says that it is up to the Provinces, the users of the highways, to install the protective devices at crossings which are used by them, and that it is not their responsibility.

THE CHAIRMAN: Have you in mind that some additional statutory responsibility should be thrown upon the railways?

MR. BARRY: Not financial responsibility.

THE CHAIRMAN: Would you read what they have in their brief?

MR. BARRY:

"Highway movements are yearly becoming more extensive and more within the Provincial and Dominion fields of responsibility. In addition the number of motor vehicles using the highways is steadily mounting --- The protection against this increased hazard should largely be provided by the highway authorities --"

THE CHAIRMAN: What page is that?

MR. BARRY: Page 139 of Part 11 of the Canadian Pacific Railway Company's brief.

THE CHAIRMAN: Oh yes. Have you any proposal to make about the law?

MR. BARRY: As to the substantive proposal there is not hardly any disagreement between our submission and that of the Canadian Pacific. But as to the attitude of the Canadian Pacific in disclaiming responsibility for taking steps to protect these crossings, I am somewhat surprised. My learned friend points out that in substance there is very little disagreement between the proposals contained in our brief.

THE CHAIRMAN: What is the disagreement?

MR. BARRY: It is with respect to the attitude of the Canadian Pacific brief. -- whether it be Mr. Crump's attitude or not -- that because highway traffic has increased, therefore the highway authorities must take care of the crossings.

THE CHAIRMAN: What do you say?

MR. BARRY: I say that the railways must take care of the crossings because highway traffic has increased.

MR. BARRY: Q Do you agree, Mr. Crump?

A. No.

THE CHAIRMAN: Do you wish to recommend any modification in the legal responsibility?

MR. BARRY: The existing law would take care of that, but I would think that it is incumbent on the railways if they have no policy, to have some policy in going to the Board.

MR. BARRY: Q. Is it not a fact that in some cases you do make application to the Board to eliminate gates and to install signals?

A Oh yes.

Q. You have a policy with respect to that?

A We do not disclaim any responsibility; but we feel, as I stated in the brief, that the increased use of the highways by the highway users should not become the full responsibility of the railways; or, as a matter of fact, that our responsibility should be increased because of the increased use of the highways.

Q Don't you feel that you, as a railway man, should recognize the fact that the highways are much greater used and that you should take more care rather than the provincial authorities?

A No. I believe the cost should be borne by those who are using the highways.

Q And you think that the Canadian Pacific as a private company has prior rights over the public to cross the highways?

A. I feel so. It is interesting to note that the Province of Quebec Safety League intends to submit to the Provincial Government a request that a full stop be asked at railway crossings as a matter of public sentiment.

MR. CARSON: Q. You mean a full stop for the motor

vehicles?

A. Yes.

THE CHAIRMAN: Are there any other questions?

MR. O'DONNELL: I have no questions.

MR. COVERT: I have ascertained from other counsel that there are no other questions. But I have a few which I would like to put to Mr. Crump.

EXAMINATION BY MR. COVERT:

MR. COVERT: Q. First of all I want to take up with you a matter which Mr. Walker intimated to me yesterday that I should take up with you, and that was in connection with the policy of the Canadian Pacific Railway as to the extensions of its operations in the field of trucking. I think I started to put to him that on short haul traffic the Railway suggested that the future is anything but bright.

A. Yes.

Q Because of inroads made by motor transportation; and I was wondering if the purchase of trucking lines in the West by the Canadian Pacific Railway was an indication that the Canadian Pacific feels that it should extend further into the field of trucking?

A. Not necessarily. But we do feel that trucking is a form of transportation and that we should find out all we can about that form of transportation. Now the only way we can find out is to try it ourselves, and that is what we have done.

Whether or not we will continue further, or eventually withdraw, I have no idea at this moment. But I do feel that we should try to find out where trucking would enter into our operations; in other words, if it would be more economical for us to handle some short-haul traffic by trucks rather than by trains, and that is what we are endeavouring to do now, to see just how it fits into our picture.

Q. Does the Company feel the same way about buses and about the transportation of passengers?

A. Yes. We have some bus lines, and we have tried that.

Q I take it from what you have said that your extension into this field is in the nature of an experiment to find out?

A. Yes. Some of our bus lines have been established a little longer; but in trucking we are trying to find out all we can about it.

Q. Yes. So far, does the Canadian Pacific merely operate trucks, as, shall we say, an extension of their rail services, ancillary to them?

A. Do you mean co-ordinated with them?

Q. Yes.

A. We operate them both ways, both co-ordinated and un-coordinated at the moment.

Q. Yes.

A. Until we can find out precisely what effect it is going to have.

Q. Have you any figures which would indicate, roughly at least, the number of miles that your trucks do operate? I mean the number of miles/^{over}that route that your trucks presently cover.

A. I have not those figures here, but to the best of my recollection it seems to me that there are somewhere around two thousand miles on which we have rights to operate trucks. That would be subject to confirmation, but I think it is about two thousand miles.

Q. I want to show you Exhibit 75 which would indicate that they have taken over 2,700 miles of route in the Western provinces?

A. Yes, that would be correct.

Q. Perhaps you would like to distinguish between trucking operations of the kind that Exhibit 75 refers to, and trucking with respect to Express operations?

A. There is a difference, yes.

Q. It is not the Express that I am referring to now. Have you the figures of the number of trucks that you have on those lines in the West?

A. Yes, we have a total of 168, which includes all trucks, tractors, semi-trailers, and miscellaneous. Actual trucks, 39.

Q. Is that for all over Canada?

A. That is in the West that you speak of.

MR. EVANS: Q. Does that include local delivery trucks?

A. No.

Q. That is over-the-road trucks?

A. Over-the-road trucks; this is over-the-road trucks.

MR. COVERT: Q. That is in the West. Have you anything comparable to that in the East at all?

A. No, nothing comparable to that in the East. We have some short trucking operations in the East but they are by contract.

Q. Do you feel that the Canadian Pacific either through itself or through associated or allied or subsidiary companies has not had experience enough as yet to determine what policy the Canadian Pacific should pursue with respect to extensions into the trucking field?

A. I am very thoroughly convinced of that matter because, as a matter of fact, a few months ago I set up a very senior committee to look at that whole problem and to explore it as rapidly as time would permit; and the results from that committee should form the guidance for future policy in that respect.

Q Have you any idea when the report of that committee should be forthcoming?

A. No sir, I have not. One of the difficulties with which that committee is confronted is the gathering of accurate statistics.

Q. Yes.

A. And our accounting department has had a lot of work to do recently, and we are getting, perhaps -- shall I say -- the second place in some of our requests.

Q. Now, Mr. Crump, it seems to me that this morning there were three main things that you dealt with, and one of them was the question of labour problems. I just want to ask you one question on them, and that is: Whether it is your view that possibly because the number of employees in the railways in Canada today is so great that if the situation should arise and a strike vote is taken, the railways would have no alternative but to accede to the demand. Would you care to express an opinion on that? If you feel that to do/^{so}would embarrass you in any way because of present negotiations, I would withdraw my question.

A If possible I would prefer not to express an opinion on that at the moment, because we are engaged in negotiations now.

(Page 13830 follows)

Q. The second point you dealt with this morning was the question of proposed improvements. I wanted to make certain as to whether or not the Canadian Pacific feel that unless freight rates are increased, and perhaps I should add to that shortly, is there a possibility or a probability that the Canadian Pacific will not be able to proceed with the program of improvements?

A. Very, very definitely, I would say.

Q. That is the view of the Canadian Pacific?

A. I would say so.

Q. Is that program being held up at all on account of that situation, the plans for it, and so on?

A. In 1949 I have not any signal installations at all on the line, much as I would like to have it.

Q. I don't know whether that quite answers my question.

A. It is being held up.

Q. Do you regard that as serious?

A. Very serious.

Q. Perhaps I should not ask you this, and you tell me if there is someone else better qualified to answer it. I should like to know whether or not the management has made any estimate as to what percentage increase in rates would be necessary to enable you to proceed with that program?

A. Well, the only information that I could advance after on that is that the wage increase in July, 1948, we felt that a 20 per cent increase in freight rates was justified.

Q. I am sorry, I missed that.

A. I say that after the wage increase of 1948 we felt that a rate increase of 20 per cent was justified to take care of our requirements.

Q. That was on top of the 21 per cent increase

that had been granted?

A. That is correct.

Q. Which would have meant that your full increase would have been approximately 46 per cent above --

A. Roughly 45 per cent, I would say.

Q. 45 per cent instead of approximately 30 per cent?

A. Yes.

Q. So you feel you need at least an additional 12 to 15 per cent, I suppose?

A. Roughly calculating, I would say so.

Q. Do hotels come under your operations, Mr. Crump?

A. No, they do not.

Q. Now, Mr. Crump, again I do not want to be too specific about this, and I realize there may be other witnesses, and if so you let me know. I would have thought in your capacity you would have looked at the position of comparable American railroads to see how they were financing. I just wanted to know if you have looked to see whether railways in the United States have been financing in recent years through the sale of common stock?

A. Well, I can only answer no to that.

Q. You mean you have not?

A. I have not looked.

Q. Then I will not pursue that any further. There is one item in the annual report of the Canadian Pacific Railway for 1948. I am looking at page 38. I wanted to know if under the heading car mileage -- that is freight--loaded and empty, whether you regard the relationship between those figures as important from an operating point of view?

A. I regard it as very important.

Q. What I want to call to your attention is, that if you look at the 1939 report, again on page 38, and compare the figures for 1938 with those for 1948, the figures would indicate that roughly they bear the same ratio now as in 1938?

A. Well, I have not the 1938 figures here.

Q. I have the report here.

A. Perhaps I have some information on that, 239 million compared to 483 million loaded or --

Q. That is approximately 24 to 48 or about 33-1/3 per cent of the total?

A. Yes.

Q. 386 million to 886 million?

A. Yes, it might be relatively the same.

Q. I am not familiar with it at all, and I wanted to know if you thought that was a surprising thing with the tremendously increased traffic?

A. No, not in this country.

Q. Not in this country?

A. We are confronted every fall with the prospect of moving tremendous numbers of empties into the west to handle the grain crop. We have to move empties west to handle Alberta coal, and consequently our empty mileage is high. I cannot give you 1938, but in 1948 the ratio of empties to loaded mileage was 30.4; in October, 1949, it was 32.7, and in January to October, 1949, it was 32.1. It is our constant endeavour to decrease that empty car mileage as much as possible because we do not make any money hauling empty cars, but unfortunately we do have a great deal of empty car mileage.

Q. Is that any criterion, or is it an example of unused capacity?

A. Well, for instance, we must move these box cars

to western Canada for the grain crop. There is unused capacity of those empty cars which have to go west to get loads. In that respect there is.

Q. I was wondering if from any other figures in the reports there is any better way of getting a look at the unused capacity of the Canadian Pacific and comparing it now with previous years?

A. Well, I think one way to compare the plant over-all would be the maximum number of ton miles that we handled during the war and what we are handling now. Certainly we were able to handle that business during the war, and if we are handling less than that now I think there is that much unused capacity, taking it from an over-all viewpoint.

Q. I think that is perhaps using unused capacity in a broader sense than taking empty car miles.

A. Yes, but the disability of taking empty car mileage is the fact that we have no alternative.

Q. That is right, there is no return cargo.

A. The desirable situation is where you have loads going both ways.

MR. COVERT: That is all I have to ask.

COMMISSIONER INNIS: Q. I was wondering about the position of cars rented from other companies. Does that fluctuate materially?

A. Very materially; at the moment on the Canadian Pacific we have 86.4 per cent of ownership of box cars which means that only 86 per cent of our total ownership is on line. As a matter of fact, that figure varies. As of the day before yesterday, for instance, we had 4,467 United States cars on our lines, but there were 9,569 of our cars on American lines.

Q. Do you think the same thing would be true of

the C.N.R.? I suppose we would get evidence as to that.

A. I think they have the same problems we have.

Q. That fluctuates pretty widely during the season?

A. Yes, it varies. At the moment on our total revenue freight cars we have 97.7 per cent of our ownership. It is only two or three months ago, I think it was, when that was up to about 101 or 102. It does fluctuate quite violently over the years.

MR CARSON: I have just one or two questions, if your lordship will permit me.

THE CHAIRMAN: Then you will dispose of Mr. Crump ?

MR CARSON: Yes, that would end Mr. Crump's evidence.

RE-EXAMINED BY MR CARSON:

Q. My friend Mr. Barry asked you, Mr. Crump, about injuries and fatalities at crossings, and you gave him some figures. I was wondering whether you could divide those injuries as between protected and unprotected crossings?

A. I think that information is given here. Under urban the total killed at protected crossings was 3, and at unprotected crossings 18. Again at urban, the total injured at protected crossings was 12, and at unprotected crossings was 68. Under rural classification, the total killed at protected crossings was 7, and at unprotected 39; and again rural, the total injured at protected crossings was 7, and at unprotected crossings 104.

Q. Have you got any figures there as to how many people ran into the sides of your trains?

A. I am afraid that is not given here, but there were quite a number.

MR BARRY: How many sides of cars did trains run into?

MR CARSON: Q. I was going to ask you if this new kind of equipment you were speaking about -- hopper cars, refrigerator cars and that sort of thing -- had any effect on the empty car mileage ratio?

A. Well, the covered hooper car -- we have, as a matter of fact, been getting considerable utilization out of that, because it is a general utility car; we can handle cement in it one way and grain another; we have been doing

that.

Q. Does the development of new kinds of equipment not tend to reduce this empty car mileage situation -- to increase it, rather?

A. The development of new types of equipment?

Q. Yes, the development of these new types of equipment tend to increase the empty car mileage?

A. Only on highly specialized cars.

Q. Then Mr. Frawley asked you a good deal about the Alberta farmer. I think I will defer any questions on that subject until he calls the Alberta farmer.

COMMISSIONER INNIS: Q. Do you have any problem with regard to increased capacity in terms of grades? That is to say, you are moving empties mostly westbound, up grade, in the west, and loaded cars down grade?

A. No. At the moment we move empties west from Fort William to Manitoba and Saskatchewan points, and, for instance, we move grain from Alberta to the Pacific Coast and then move the empties back for further grain.

Q. What I was wondering was, what about your engines? Are your engines using more power on empty cars westbound than they would on full, on loaded cars?

A. Oh, yes. I did not get the significance of your point, Mr. Commissioner. It is harder to pull a full tonnage train of empties than it is a full tonnage train of loads, because the resistance is greater. Yes, that is correct.

THE CHAIRMAN: We will adjourn until tomorrow morning.

---The Commission adjourned at 4:50 p.m. until 10:30 a.m. on Thursday, December 14, 1949.

HANDBOUND
AT THE



UNIVERSITY OF
TORONTO PRESS

